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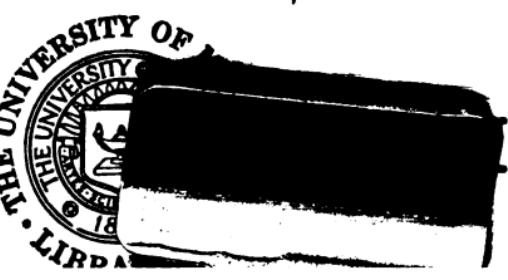
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THE
HISTORY and PROCEEDINGS
OF THE
HOUSE of LORDS,
WITH THE
DEBATES and PROTESTS therein.

ON the 14th of November, 1697, the King made a sort of triumphal Entry into London, and on December the 3d opened

The THIRD SESSION of his Third Parliament

WITH a Speech to both Houses, to be found in CHANDLER's *History, Anno 9 Will. III. 1697,* P. 74. to which the Lords return'd an *Address,* Lords Address congratulating his happy Return, accompanied with the Blessings of a safe and honorable Peace; which, next under God, they were sensible was owing to his Courage and Conduct; they told him, that, after the Hazards and Labours he had so long sustained for the Good of Europe, there wanted nothing but this to compleat the Glory of his Reign; and assur'd his Majesty, that they should never be wanting in their Endeavours to assist his Majesty in maintaining that Quiet which he had so graciously restored to these his Kingdoms, and in contributing all they could to the Safety of his Person, and the securing the Peace and Prosperity of his Government. His Majesty, in Return, "assured their Lordships King's Answer, of his Kindness, and told them, he hoped this Peace would be so bleſ'd, that they might long enjoy it."

The Stream of the public Busines, during this Session, appears to have run principally thro' the House of Commons, inſomuch that, till the Case of the Earl of Macclesfield came to be argued, we met with nothing of Moment in that of the Peers.

Anne 9 Will.
III. 1697.

Earl of Mac-
clesfield's Case.

And Plea.

It appears that, during the Residence of the said Earl a-broad, his Lady retir'd from his Father, where she had been left, to her own Mother's Lady *Masons*; which so far irritated her Lord, that when he return'd, he did not think proper to invite her back: She thinking herself, therefore, at Liberty, admitted the Addresses of another Earl (*Rivers*), the Consequence of which were two Children, a Daughter and Son. Of this her Husband being apprized, his Lordship apply'd himself to his Peers for a Remedy, which nothing but a Parliament could give; all the Relief which he could expect from a Sentence in *Doctors Commons* being no more than that State of Separation, in which he and his Lady had long liv'd. He alledg'd, that it is evident, that the Divine Law admits of second Marriages in such Cases; and that there had been Acts of Parliament for them, as well as for bastardizing spurious Issue: That those Canons which have prohibited second Marriages in like Case, were so manifestly an Effect of the Popish Doctrine of Marriage being a Sacrament, and of the Avarice of the Court of *Rome*, to get Money for dispensing with them, that in the Reformation of Ecclesiastical Laws, prepared and intended in the Time of *Edward VI.* in pursuance of an Act of Parliament of *Henry VIII.* there was express Liberty given, by those Canons, to marry again; which, by virtue of that Act of Parliament, would have become a general Law, or at least have occasioned one: That whatever Objection might be against such a general Law, from the Temptation it might give ill People to seek groundless Dissolutions of Marriages; yet, upon extraordinary Cases, such as this was, such Relief had been granted; and where it had been denied, either the Fact was not fully proved, or the Parties had cohabited, or, after the Grounds of Dissatisfaction had been reconciled: That if in such a Concurrence of Circumstances, as were in his Case, he must still be thought to have a Wife, and the Children she had must be looked upon as his, from the common Presumption, till contrary Proof, in that they were born within the four Seas; besides, that it could not but be too great an Encouragement to Women, to make an ill Use of a separate Maintainance, which is provided for in most Marriage-Settlements; it would be a most unreasonable Hardship upon him, that the standing Law, which is designed to do every Man Right, should, by the Rigour of the Letter, be to him the Cause of the greatest Wrong; and that for his Wife's Fault he should be deprived of the common Privilege of every Freeman in the World, to have an Heir of his own Body, to inherit what he possest, either of Honour or Estate; or that his only Brother should lose his Claim to both, and have his Birthright sacrificed to the Lady *Macclesfield's* irregular Life.

While

While this Affair was depending in the Spiritual Court, the Anno 10 Will. III. 1698.
 Lady Macclesfield insisted upon her Innocence, and her Agents industriously spread a Report, that the Earl, her Husband, had been surprized into a private Meeting with her, (by a Woman of Intrigue) at which time he got her with Child; but this Story being confuted by the Earl's positive Evidence to the contrary, her Ladyship gave up that Point now, and only endeavoured to make her Husband the Author of her Miscarriages. She alledged, that the late Earl of Macclesfield had turn'd her out of Doors; that the present Earl, notwithstanding the Obligation she had laid upon him, by petitioning King James for his Life, had maliciously secluded her from Bed and Board: And therefore, if the Lords thought fit to pass this Bill of Divorce, she demanded her Fortune to be refunded; both because a Divorce dissolves the whole Frame of the Marriage-Contract, and because it were the highest Pitch of Injustice, that a Man who was guilty of making his Wife commit Adultery, should be rewarded out of the same Wife's Fortune. This Affair occasioned great Debates in the Upper House; some Peers representing the Danger of granting Divorces, and others, amongst whom Dr. Burnet, Bishop of Salisbury, spoke the loudest, shewing the Necessity and Lawfulness of such extraordinary Proceedings, in some particular Case. Upon the whole Matter, the Lords passed a Bill for dissolving the Marriages between Charles Earl of Macclesfield, and Anne his Wife, and to illegitimate her Children; but with a Proviso, that the Earl should refund her Fortune.

Which gave Rise to the following Protest.

Dissentient'

Because, we conceive, this is the first Bill of this Nature Protest thereon; that hath passed, where there was not a Divorce first obtained in the Spiritual Court, which we look upon as an ill Precedent, and may be of dangerous Consequence for the future.

Hallifax, Rochester.

June the 10th, The Lords presented an Address, desiring his Majesty to discourage the Woolen Manufacture of Ireland, and promote the Linnen.

June the 15th, A Conference was had with the Commons on the Subject-matter of the Lords Message of the eighth Instant, declaring they will proceed to the Trial of Gaudet and others at the Bar of the House; and Report made of what was offered by the Commons,

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The

* See CHANDLER's History, Anno 10 Will. III. 1698, Page 88.

Lady Macclesfield's Reply.

anno 10 Will. III. 1698. The Question was put, Whether this House shall infall upon their Declaration above-mentioned ?

Dissentient'

Protest thereon. 1st, Because the Managers of the House of Common may have Occasion, in Trials upon Impeachment, to have recourse to Papers, Books, and Records, which they can not so conveniently make use of in a Crowd.

2dly, It seems as reasonable, that some Provision shoul be made for their Convenience, and to protect them from the Crowd at the Bar of this House, as in *Westminster-Hall* the Judicature of this House receiving no Alteration by the Place to which they adjourn ; nor could the Lords think so when even upon the Desire of the Commons themselves in the Earl of *Strafford's* Case, being offered all imaginable Convenience at the Bar of this House, and finding them selves streightened thereby, the Lords appointed the Trial to be in *Westminster-Hall*, on that Consideration, as we conceive.

3dly, The noblest Part of their Lordship's Judicature may not only hereby be lost, but what has been hitherto though one of the greatest Securities against Attempts upon the Constitution, by such a Discouragement of the Commons from bringing up Impeachments to the Bar of this House, will be very much weakened.

*Devonshire, Stamford, * Haverham.*

Bill for settling the East-India Trade to be read a second time,

July the 1st, After hearing Council for and against the Bill, entitled, An Act for raising a Sum, not exceeding two Millions, upon a Fund for payment of Annuities after the Rate of Eight per Cent, per Annum, and for settling the Trade to the *East Indies*.

And after Debate thereupon, the Question was put, Whether this Bill shall be read a second time ?

It was resolved in the Affirmative Contents 47, Proxies 18 ; in all 65. Not Contents 28, Proxies 20 ; in all 41.

Dissentient'

Protest thereon. 1st, Because this Bill puts an unreasonale Hardship upon the present *East-India Company*, since it plainly appeared at the Bar of this House, that a Security, of which (we conceive) there was no Reason to doubt, had been offered by the said Company for raising the whole two Millions for the public Service, whereas the Bill investing the new Subscribers with the Trade upon the Subscription of one Million only, does not, as we conceive, give so much as Probability of raising more ; and it may be reasonably enough doubted, whether the separate Trade allowed in this Bill

co

• Sir John Thompson, Bart. created Baron Haverham, May 4, 1699

concurrent with a Joint-stock, may not prove so inconsistent as to discourage the Subscription from ever coming near to the said Million.

Anno 10 Will. III. 1693.

2dly, Because the Bill puts a Period to the Charter of the *East-India Company*, and gives the Trade thither to other Persons, without so much as suggesting that the said Charter, or the Trade carried on by virtue of it, hath been prejudicial to the King or Kingdom, tho' the said Company have an express Clause in their Charter, that it shall not be determined without three Years Warning, even if it should appear not profitable to the King or this Realm; and the Bill granting likewise a Supply of two Millions, in which the Commons pretended the House of Lords ought not to make any Alteration; we are of Opinion their Lordships are thereby likewise deprived of the Freedom of their Vote in the Matter of the *East-India Trade*, to which it cannot be denied but they have an equal Right with the Commons, and yet by its being joined to a Bill of Supply, this House must either be the Occasion of disappointing so large and necessary a Grant for the Public Service, or be put upon the unreasonable Hardship of consenting to a Matter, which, tho' it seems so unjust, it is fruitless for them to examine, if their Amendments are not to be admitted, because offered to a Money-Bill, which we humbly conceive to be a manifest Violation of the House, and tending to an Alteration of the Constitution of the Government.

Hollifax, H. London, Willoughby, Jeffreys, Berkeley of Berkeley, P. Winchester, Torrington, Rochester, Tho. Roffsen', Howard, Denbigh, E. Gloucester, Scarfdale, Godolphin, Audley, Granville, Peterborough, Dartmouth, Berkeley, Anglesey, Guilford.

July the 5th, The King prorogued the Parliament with a Speech, which was soon after dissolved.

Parliament dissolved.

July the 20th, The King embark'd as usual for *Holland*, where he negotiated and concluded the famous Treaty of Partition, which was the most remarkable Transaction, relating to *England*, of this Summer.

December the 3d, His Majesty landed at *Margate*, three Days after which

The Fourth Parliament of King WILLIAM

MET at *Westminster*, pursuant to a Proclamation for that Purpose: And the Commons having, by Direction, chose their Speaker, the King open'd the Session

Anno 11 Will. Session with a Speech, which is to be found in CHANDLER's
History, Anno 10 Will. III. 1698. Page 91.

January the 3d, The Lords being highly sensible of his Majesty's great Care and Goodness towards his People, express'd upon so many Occasions, and particularly in his Speech to both Houses, at the opening of this Parliament, begg'd Leave, by way of Address, ' humbly to assure his Majesty, that as they should always retain a lively Impression of those great and continued Obligations, which his Majesty had laid upon this Nation to all Posterity ; so it should be, upon every Occasion, the perpetual Care and Study of that House, with the most zealous Duty, and the most grateful Affections imaginable, to make his Majesty all suitable Returns within their Power. And at this time particularly they further assured his Majesty, that they should not fail to use their most diligent Endeavours, for the attaining of those great and good Ends, which his Majesty had been pleased to recommend to his Parliament'

To which the King reply'd,

King's Answer. " **T**HAT he took their Address very kindly, and gave them his hearty Thanks ; and that they might always depend upon his Kindness, as he did on this Assurance of theirs to him, and their Zeal for the Public Good."

Another Address on disbanding the Army. And upon his Majesty's passing the * Act for the disbanding the Army, the Lords presented their most hearty Thanks to his Majesty for it, and for the gracious Expressions in his Speech, ' That it was his Majesty's fix'd Opinion that no

thing could be so fatal to them, as that any Distrust or Jealousy should arise between his Majesty and his People ; as likewise for his great Care and Concern for the Safety of the Kingdom upon all Occasion, assuring his Majesty, that at all Times, for the Safety of the Kingdom, and the Preservation of the Peace, which God had given them, they would assist and defend his Majesty against all his Enemies both at Home and Abroad.'

The Earl of Warwick and Lord Mohun, tried for a Murder;

March the 28th, *Edward Earl of Warwick, and Charles Lord Mohun*, being severally indicted for the † Murder of *Richard Coote, Esq;* were tryed by the House of Peers, in a Court prepared for that purpose in *Westminster-Hall*, the Lord Chancellor of *England*, being constituted Lord High Steward upon this Occasion. The Court being opened, with the usual Ceremonies, the Trial of the Earl of Warwick came

* February the 1st. At which Time he made a Speech : See CHANDLER's History, Anno 11 Will. III. 1698, Page 93.

† In a drunken Fray in Lincoln's-Inn-Fields : Three against Three.

came on first, and lasted till late in the Evening, when the *anno 11 Will. III. 1698.* Peers adjourn'd to their own House, and after some Debate, the Lords temporal only returned to the Court in *Westmin-ster-Hall*, where they delivered their Judgments *seriatim* upon their Honours, and unanimously acquitted the Earl of *Warwick* of the Murder, but found him guilty of Manslaugh-
ter; who craving the Benefit of his Peerage, according to the Statute in that Case provided, was thereupon discharged and acquitted. The next Day came on, in like manner, the Trial of the Lord *Mabon*, who with great Composedness and Ingenuity, having made his Innocence appear, was acquitted of the said Murder, by the unanimous Suffrages of the Peers there pre-
sent.

April the 27th, *Hodie 3^a vice le^{ta} est Billa*, entitled, *An Act for granting to his Majesty the Sum of one Million, and an Aid to eighty-four Thousand and fifteen Pounds, one Shilling and his Majesty for eleven Pence three Farthings for disbanding the Army, pro-viding for the Navy, and for other necessary Occasions.* *Army passed.*

The Question was put, Whether this Bill shall pass?
It was resolved in the Affirmative.

Dissentient

Because of the Clause at the latter end of the Bill, which Protest thereon constitutes Commissioners for enquiring into, and taking an Account of all such Estates real and personal, within the Kingdom of *Ireland*, as have been forfeited for High-Trea-
son by any Persons whatsoever during the late Rebellion within that Kingdom; which, we conceive, was a Matter foreign to this Bill, and more proper for a Bill by itself, and that the taking of a Clause of that Nature is contrary to the antient Method of Proceedings in Parliament, and on that account, as we apprehend, may be of ill Consequence to the Freedom of Debate in either House, and highly prejudicial to the Privileges of the Peers and the Prerogative of the Crown.

Anglesey, Jo. Oxon', Suffolk, Raby, Hawesham, Warrington, Rochester, Cholmondeley, Jeffreys.

May the 4th, The King put an End to the Session with a Speech, which see in *CHANDLER's Hist. Anno 11 Will. III. 1699, Page 105.* *Parliament prorogued.*

June the 1st, The King set out for *Holland*, and seems to have had nothing so much at heart, as securing to himself the Principality of *Neufchatel*, as Heir to the House of *Longueville*, claimed also by the Prince of *Conti*, and the Dukes of *Neuemoirs*, who were both prevailed upon by the most Christian King, if not to drop their Pretensions, to stop Proceedings.

Anno 12 Will.
III, 1698.

October the 18th, His Majesty returned again to England,
and November the 16th

The SECOND SESSION of his Fourth
Parliament

WAS opened, with a Speech from the Throne, which
see in CHAND. Hist. Anne 12 W. III. 1699 P. 106.

Williamson a-
gainst the King,
Judgment re-
versed.

January the 23d, After hearing Council at the Bar to
argue the Errors assigned upon the Writ of Errors depend-
ing in this House: wherein *Robert Williamson* is Plaintiff,
and his Majesty, by his Attorney-General, Defendant, and
Debate thereupon, this Question was put, Whether the
Judgment of Reversal shall be reversed?

It was resolved in the Affirmative.

Protocol thereon. Leave being asked and given for any Lord to dissent,
these Lords, whose Names are hereunto subscribed, do dis-
sent, for the Reasons following:

For that, we conceive, it did not appear, that ever any
such Judgment was given by the Exchequer before the an-
nexing the Court of Augmentations to the Exchequer.

For that, since the dissolving and annexing of the said
Court of Augmentations, there hath no such Judgment been
given, unless in such Cases which were in the Cognizance of
the Court of Augmentations before it was dissolved.

That the Judgments in the Case of *Sir Henry Neville*
and *Sir Thomas Wrotb*, and others of the like nature cited,
seems to be by virtue of the Powers of the Court of Aug-
mentations being annexed to the Court of Exchequer.

That those Courts were duly annexed, appears by the
Preamble of the Statute 1 Eliz. Cap. 4. by the Lord Chief
Justice *Bromley*'s Case, and by the Case of the Earl of *De-
vonshire* in *Coke's Reports*, and for that the Court of First-
fruits and Tents was dissolved and annexed in like manner
to the Exchequer, as the Court of Augmentations was; which
Powers, by that Annexation, subsist in that Court to this
Day.

* *Lonsdale*, C. P. S. *Salisbury*, *Rivers*, *Haverhamb*, *Stamford*,
Bergavenny, *J. Culpeper*, *W. Wigorn*, *Rich. Peterburg*,
Audley.

Settlement of
the Scotch Co-
lony at Darien
debated.

February the 8th, After reading the Order of the 29th
of January last, for resuming the adjourned Debate con-
cerning the Settlement of the Scotch Colony at *Darien*, and
long Debate thereupon, this Question was proposed, That

* Sir John Lowther, made Baron Lowther, and Viscount Lonsdale,
May the 28th, 1696. 2

the Settlement of the Scotch Colony at *Darien* is inconsistent Anno 11 Will. with the Good of the Plantation-Trade of this Kingdom. III. 1698.

Then the previous Question was put, Whether this Question shall be now put?

It was resolved in the Affirmative: Contents 32; Not content 26.

Dissentient

Because, as we conceive, there has not been made appear, Protest thereon, in this Debate, any Ground sufficient to determine a Point of so great Importance, and yet it has been refused to allow Time for due Information in a Matter of Trade, which is very obscure, and of the highest Consequence to the Quiet and Welfare of both Nations in this Conjunction.

Normanby, H. London, Nottingham, Weymouth.

The 12th, The Lords represented in an Address to his Lords Address, Majesty, ' That according to their Duty, being solicitous against the said for the Preservation and Increase of the Trade of the Colony. Kingdom, on which the Support of his Majesty's Greatness and Honour so much depended, as well as the Security and Defence of his People, had been very apprehensive, that the Step made towards the Settlement of the Scots at *Darien*, might tend to the great Prejudice of *England*, and possibly to the Disturbance of that Peace and good Correspondence with the Crown of *Spain*, which they conceived to be very advantageous. That therefore they had taken the same into serious Consideration, and thought it proper to be laid before his Majesty, as the common Father of both Countries. And that as they were truly sensible of the great Losses their Neighbour-Kingdom had sustained, both by Men and Treasure, in their Expeditions to that Place, which they very heartily lamented; so they should not endeavour, by any Interposition of theirs, to defeat the Hopes the Scots might still entertain of recovering these Losses by their further engaging in that Design, but that they judged such a Prosecution on their Parts, must end not only in far greater Disappointments to themselves, but, at the same time, prove inconvenient to the Trade and Quiet of the Kingdom of *England*. That they presumed to put his Majesty in mind of the Address of both Houses of Parliament, presented to his Majesty on the 17th of December, 1695, in the close of which Address his Majesty would see the unanimous Sense of the Kingdom, in relation to any Settlement the Scots might make in the *West-Indies*, by virtue of an Act of Parliament past about that Time in the Kingdom of *Scotland*, which was the Occasion of the Address. That they also humbly represented to his Majesty, 1698

Anne 11 Will. III. 1698. that having received Information of some Orders his Majesty had sent to the Governors of the Plantations on that Subject, the House had, on the 18th of January then last past, come to this Resolution, that his Majesty's Pleasure signified to the Governors of the Plantations, in relation to the Scots Settlement at *Darien*, was agreeable to the fore-mentioned Address of both Houses of Parliament; and that on the 8th of that instant *February*, that House came to a farther Resolution, that the Settlement of the Scots Colony at *Darien* was inconsistent with the Good of the Plantation-Trade of the Kingdom. All which they hoped his Majesty would take into his Royal Consideration.'

The King's Answer.

This Address was carried only by four or five Votes, and about sixteen Peers entered their Protests against it. As for the Commons, they absolutely refused to concur with it; but however, his Majesty made Answer; " That having received a very dutiful Address from the House of Peers, he was pleased to let them know, that he would always have a very great Regard to their Opinion, and that he assured them, that he would never be wanting, by all means, to promote the Advantage and Good of the Trade of *England*." At the same time his Majesty was pleased to declare, " That he could not but have a great Concern and Tenderness for his Kingdom of *Scotland*, and a Desire to advance their Welfare and Prosperity; and was very sensibly touched with the Loss his Subjects of that Kingdom had sustained by their unhappy Expedition, in order to a Settlement at *Darien*; that his Majesty did apprehend, that Difficulties might too often arise, with respect to the different Interest of Trade, between his two Kingdoms, unless some means were found out to unite them more nearly and completely; wherefore he took this Opportunity of putting the House of Peers in mind of what he recommended to his Parliament, soon after his Accession to the Throne, that they would consider of an Union between the two Kingdoms." That his Majesty was of Opinion, " That nothing would contribute more to the Security and Happiness of both Kingdoms; and was inclined to hope, that after they had lived near 100 Years under the same Head, some happy Expedient might be found for making them one People, in case a Treaty were set on foot for that purpose; and therefore he very earnestly recommended that Matter to the Consideration of the House."

Steps towards an Union. Hereupon the Lords framed and passed an Act for authorizing certain Commissioners of the Realm of *England*, to treat

treat with Commissioners of *Scotland*, for the Weal of both Anno 21 Will. Kingdoms, to which the Commons refused to give their III. 1698. Concurrence.

March the 8th, after long Debate upon the Evidence for and Bill to dissolve against the Bill to dissolve the Duke of Norfolk's Marriage the Duke of with the Lady *Mary Mordaunt*, and to enable him to marry Norfolk's Marriage again, and the Subject-matter of the Bill,

The Question was put, Whether the said Bill shall be read a second time?

It was resolved in the Affirmative. Contens 47; Not Pass'd. contents 30.

Dissentient

1st. Because, we conceive, there was a Contradiction in the Protest thereon. Evidence given at the Bar, which made the Validity of it sus-pected.

2dly, And because it is without Precedent, that a Bill of this Nature was ever brought into Parliament, where the Subject-matter had not been first proceeded on in the Ecclesiastical Courts; and that it may be of dangerous Consequence to the Settlements of Families to subject the Dissolution of Marriages to so short and summary a way of Proceeding.

Burlington, Rochester, N. Cestriens', Lempster, Jonat. Exon', H. London, Mantagu, Weymouth, Vaughan, Ja. Lincoln, Hallifax, Sussex, Jeffreys, Bolton, Tho. Roffen', Sy. Eliensis, Scarfsale, Thanet, North and Grey.

The Cause had been tried in the King's-Bench November the 24th, 1693, and upon a full hearing, the King found for the Plaintiff, and allowed his Grace one hundred Marks Damages, with Costs of Suit; and a State of his Case was as follows.

If want either of Precedent or parliamentary Divorce, be His Grace's Case, fore going through the tedious and ineffectual Methods of *Doctors Commons*, or of Demonstration of Fact, have hither-to depriv'd the Duke of *Norfolk* of that Relief against his Wife's Adultery, which the Divine Law allows; The late Statute made in the like Case, and the coming in of two Witnesses, who, while the Duke's former Bill was depending, had been sent away to prevent that Discovery which they now make, cannot but be thought to remove all Objections against an Act of Parliament, not only for the Benefit of the Duke, but of the Public, as a means to preserve the Inheritance of so great an Office, and Honours to Persons of the true Religion.

And, since Bishop *Cozens*'s Argument in the Lord *Roffe*'s Case has made it evident, that those Canons, which govern the spiritual Court in this Matter, are but the Remains of

* That of Lord *Macchesfield*.

Anno 11 Will. Popery, nothing can be now requisite to satisfy the most scrupulous of the reformed Religion, but to see the Duke's Proofs of his Lady's Adultery in a true Light.

III. 1698. The Reputation which the Dutches had maintained, of Wit and Discretion, made it difficult for many to believe, that she could be surprized in the very Act of Adultery, as had been formerly proved. And tho' then it appear'd, that one *Henry Keemer* lived with the Dutches, while she went by a feigned Name, at a House hired for her at *Vaux Hall*, by Sir *John Germain's* Brother; and that *Nicola*, who then lived with Sir *John*, used to receive Wood sent from the Dutches to Sir *John's* House by the *Cockpit*; the withdrawing of *Nicola* and carrying with him the *Dutch Maid*, equally entrusted with the Secret on Sir *John's* Side, left no Evidence of their constant Conversation, but *Keemer*, since dead, and *Susannah Barrington*, who had the like Trust from the Dutches.

Keemer, tho' very unwillingly, some Years since, confess'd his living with the Dutches at *Vaux-Hall*, where, he pretended, she was obliged to conceal herself for Debt; and what Share *Susannah* had kept secret was unknown, till *Nicola* appear'd: *Nicola* coming into *England*, and being destitute of a Service, express'd his Readiness to discover what he knew, and to bring with him the *Dutch Maid*.

She proves, That for two Months, the first Summer after the King came for *England*, Sir *John Germain* and the Dutches lived together as Man and Wife, and were seen in Bed by her, Mr. *Bryan*, and his Wife, Sir *John's* Sister: And that *Nicholas Hauseur*, Sir *John's* *Valet de Chambre*, used to be assisting to him, as the Dutches's Woman, *Susannah Barrington*, was to her, at going to Bed and rising.

She proves the like Conversation at *Vaux-Hall*, and the Dutches's House at the *Mill-Bank*, till the Duke's first Bill of Divorce was depending; within which time *Nicholas Hauseur*, by Sir *John's* Order, carried her away, and *Susannah Barrington*, with intention of going for *Holland*, to prevent their being examined to what they knew; but the Wind proving contrary, they could not go till the Bill was rejected; and then Sir *John* fetch'd back *Susannah*, who was most useful to the Dutches; but *Hauseur* went for *Holland* with *Ellen*.

He confirms *Ellen's* Evidence in every Particular; and, besides the Persons mention'd by *Ellen* as privy to Sir *John's* Intrigue, names Sir *John's* Brother *Daniel*. *Nicholas* having been found very truly, his Master sent for him to return to his Service, and gave him the Opportunity of proving the Continuance of the same Conversation at several Times and

Places,

Places, from the Summer, 1692, to the 26th of April, 1696. Anno 11 Will. III. 1698.

He swears he had, after his Return to Sir John's Service, seen them in Bed together in Sir John's House at the Cockpit, and at the Dutches at Millbank, where she now lives, and used to be let into the Dutches's Apartment by *Susannah Barrington*, or *Keemer*. Nor can any Man who shall read the ample Testimonials given Mr. *Hauseur* by Sir John; by the last of which it appears that he serv'd him faithfully as his Steward, reasonably question *Hauseur's* Credit.

Another who had been advanced by Sir John, from his Footman, to Mr. *Hauseur's* Place, and from thence to a good Office in the Excise, very unwillingly confirmed the Testimony of *Hauseur*, and the Dutch Maid, not only as to the Time of their going from the Service of Sir John and the Dutches; but tho' being no Foreigner, he could not so easily be sent away to prevent Discovery, and therefore was not let so far into the Secret as *Hauseur* and the Dutch Maid; yet he swears the Dutches used to come mask'd to his Master's House; that he has gone with him as far as the Horse Ferry, towards her House at the Mill-Bank, that then his Master sometimes lay out all Night, and the next Morning he has carried Linnen and Cloaths for his Master to *Keemer's* House, or *Keemer* has fetch'd them from him: And this he proves to have been since the rejecting the former Bill, and about five Years since, when he was succeeded by *Hauseur*, as before he had succeeded *Hauseur*.

Two other Foreigners, *La Fountaine*, who had lived with Sir John, and was serv'd with Summons at the Dutches's House at *Drayton*, and *Huganoe*, who ran away from the Lord *Haverham's* since Summons was taken out against him, seem to have had the same Trust that *Hauseur* had; for both declared, that nothing should oblige them to betray their Master's Secrets: One said, No Court could dispense with his Oath of Secrecy; and both declared they would immediately go beyond Sea. Summons have been taken out for Mr. *Brian* and his Wife, and Sir *John Germain's* Brother, (who are, or lately were in Town) to confess or deny what *Nicola* and *Ellen* appeal to them for: And it cannot be imagined that Sir John should chuse the Honour of being thought to have to do with a Dutches, before the clearing her and himself from the Imputation, by bringing his Relations to disprove the Charge, if what is sworn to be within their Knowledge, is false.

And, if Sir John's Vanity should prevail with him, at least it is to be presumed, that his Relations would be more just to him and the Lady, than to suffer any thing to pass against them, which they could with Truth and Justice prevent.

But,

Anno 11 Will.
M. 1698.

But, since none of them appear, the World will believe their absenting more than a thousand Witnesses, in Confirmation of what Mr. *Hauseur*, *Ellen*, and *Bayly* have sworn. Whose Evidence stands untouched by any thing offer'd by the Dutches's Witnesses, but is plainly confirmed by them in the principal Parts.

This being the Nature of the Proofs, 'tis observable,
1st, There never yet was any Case of this kind, where the Evidence was not liable to greater Objections than can be made to this.

Tho' in the latest Case of that kind, there was full Conviction of the Lady's having Children while she lived separate from her Husband ; and the Presumption was very violent, whose the Children were ; yet this was but Presumption, and that was weakened by the Presumption in Law, that they were the Husband's, especially since there was no direct Proof of the Lover's ever lying with her.

2^{dly}, Tho' in that Case, by reason of the Interval of Parliament, and Fear of the Deaths of Witnesses, a Suit was begun in *Doctors Commons*, 'twas taken from thence while the Suit was depending ; therefore that was rather an Objection against proceeding in Parliament, than an Argument for it.

3^{dly}, In that Case, several Witnesses were examined at the Bars of both Houses, who had not been examined at *Doctors Commons*, nor any Notice given of their Names before their Examination.

4^{thly}, It appears by that Case, and the present, that the Examinations in Parliament are more solemn and certain than those of the Spiritual Court ; which depend too much upon the Honesty of the Register, or his Deputy.

5^{thly}, Before that Case, Parliaments have either broken through the Rules which bind the Spiritual Court, as in the Case of the Duke of *Norfolk*, 1 *Eliz.* where the Parliament ratified a Marriage, as lawful according to God's Law ; tho' protracted and letted, by reason of certain Decrees and Canons of the Pope's Law ; or else have dissolved a Marriage where there had been no Application to *Doctors Commons*, as in the Case of Mrs. *Wbarton*, who had been married to Mr. *Campbel* ; and yet there had been no Examination of Witnesses, but what had been before the two Houses.

So long before, in the Case of Sir *Ralph Sadler*, upon Proof before the two Houses that the Lady *Sadler's* former Husband had deserted her, and disappeared for four Years before she marry'd Sir *Ralph*, the Parliament legitimated her Children by Sir *Ralph*.

Whereas some object against the Passing the Bill, as if it would countenance a Jurisdiction in the House of Lords to examine to such Matters, in the first Instance or originally; the Objection would be the same if it had begun, as it might, in the House of Commons; but in truth, would be of equal Force against most private and public Acts, occasioned by the Examination of Witnesses or Notoriety of Fact.

Anno 11. Will.
III. 1699.

Since therefore the Duke has so long, and so often in vain endeavoured to be freed from a Lady, publicly famed and proved to have lived with Sir *John Germain*, as his Wife; the Duke's former Disappointments cannot but be powerful Arguments for his speedy obtaining that Justice which the Spiritual Court cannot give him; their Power reaching no farther than to that Liberty of living as she list; some Years since settled by Articles: But as none of less Art and Oratory than her Counsel could have turned this into a License to commit Adultery, if she list, or a Pardon afterwards; had not there been Evidence of her acting according to such Construction, the Duke would have hoped she had repented of the former Injuries he had received from her; but now hopes she shall not longer continue to bear the Name of his Wife, and put him in Danger of being succeeded by Sir *John Germain's* Issue, or deprive him of the Expectation of leaving his Honours, Offices, and Estates, to a Protestant Heir.

April the 4th, The Order being read for resuming the Bill for granting Debate adjourned Yesterday, upon the Bill entitled, An Act an Aid to his for granting an Aid to his Majesty by Sale of forfeited Estates Majesty by Irish and Interests in *Ireland*, and by a Land-Tax in *England*, for a Forfeitures and the several Purposes therein mentioned.

And Debate thereupon, the Question was put, Whether this Bill shall be read a second time?

It was resolved in the Affirmative. Contents 70; Not contents 23.

Dissentient'

Though there be nothing we most earnestly desire, and Protest thereto, shall on all Occasions, to the utmost of our Power, more sincerely and heartily endeavour, than the Preservation of a constant, right and good Understanding and Agreement between the two Houses of Parliament, as that on which the Safety, Welfare, and Happiness of the Nation, and the Preservation of the wisest and noblest Constitution of the World, does so much depend; yet we cannot but enter this our Protestation against a second Reading of this Bill.

1st, Because, as we conceive, this Bill does, in one Part, tend very much to the Alteration (if not to the Destruction) of that Constitution which, we believe, the Supply in the other Part was given to preserve.

2^{dly},

Aano i Will.
III. 1699.

2dly, Because, we conceive, the tacking so many and different Matters to a Money-Bill, is not only contrary to all the Rules and Methods of Parliament, but highly dangerous both to the undoubted Prerogative of the Crown, and Right of this House, putting it, as we conceive, in the Power of the Commons to make any Resolutions of their own as necessary as any Supply given for the Support or Emergencies of State.

3dly, We know not how far the just Right any private Subject has to his Estate may be endangered by the Precedent of such a Bill ; for if the Titles so many Persons have to their Estates may be determined by the Commons in a Money-Bill, without either Oath or Appeal, as, we conceive, in this Bill they are, we cannot apprehend, how any single, private Subject, or Minister of State, can, for the future, be safe ; which must needs be a weakening the Prince's Hands, and the legal Security every Man now has to his Estate.

Richmond, Haverham, Moun, Stamford, Bolton, Audley, Bergervenny, Anglesea.

Free Conference
on the said Bill.

The 10th, A free Conference having been had with the Commons, upon the Subject-matter of the Amendments made by the Lords to the Bill for granting an Aid to his Majesty by Sale of the forfeited Estates and Interests in *Ireland*, and by a Land-Tax in *England*, for the several Purposes therein mentioned ; and Report made that the Commons had used no Reasons at the said free Conference, but said, they had Orders to return the Bill, and leave it with the Lords.

After Debate the Question was put, Whether this House will adhere to their Amendments made to this Bill ?

It was resolved in the Negative. Contents 40, Proxies 3 ; in all 43 : Not contents 47. Proxies 6 ; in all 43.

Then the Question was put, Whether this House will agree to the said Bill without any Amendments ?

It was resolved in the Affirmative. Contents 39 ; Not contents 34.

We do dissent for the Reasons given this Day to the Commons at a Conference, which Reasons are as follow :

Bill pass'd.

Protest thereon. 1st, Because the Reasons given by the Commons against their Lordships Amendments do no way relate to the Matter contained in the said Amendments.

2dly, Because though there be nothing in the said Amendments relating to Aids and Supplies granted to his Majesty in Parliament, yet the Commons have thought fit to take occasion thereupon to assert a Claim to their sole and entire Right, not only the granting all Aids in Parliament, but that

that such Aids are to be raised by such Methods, and with such Provisions as the Commons only think proper: If the said Assertions were exactly true (which their Lordships cannot allow) yet it could not, with good Reason, follow from thence, that the Lords may not alter, or leave out, according to their Amendments, when the saving the Estates of innocent Persons, and of such as have been outlawed after their Death, makes such Amendments necessary.

3dly, And the Lords think it unreasonable and unjust to vest in the Trustees any greater, or other Estate, than was in the forfeiting Person, or than the King may legally have; since thereby not only many innocent Persons, who come in by Descent or Purchase, or other valuable Considerations, might suffer equally as Criminals, but 'tis possible, that Men, who, with the utmost Hazard of their Lives have been defending the Goverment, may forfeit as Traitors: And they cannot apprehend, that by any Law of this Land, or by any Rule of Reason or Justice, any Person ought to be outlawed after Death, since 'tis condemning a Man unheard, allowing him no Opportunity of making his Innocence appear.

4thly, The Lords admit the Resumption of the forfeited Estates in *Ireland* to be a Thing necessary, by reason of the great Debt due to the Army and others, which they earnestly desire to see discharged, and are therefore very willing and desirous to give their Consents to any reasonable Bill the Commons shall send them up to that Purpose: But the Lords can by no means consent, that the Commons shall take upon them to dispose of any of the said Forfeitures to any private Persons, it being the sole and undoubted Right of the Crown to be the Distributer of all Bounties, and being contrary to all the Laws and Course of Parliaments, to give Aids, Supplies, or Grants, to any but the King only; and as the contrary Practice is totally new and unprecedented, so, in Process of Time, it may become of the last ill Consequence to the Public.

5thly, The Lords cannot agree to the Clauses that create an Incapacity in the Commissioners or Managers of the Excise for sitting in this Parliament, because the Qualifications of Members to serve in Parliament is a Thing (if proper to be meddled with at all) that hath been thought fit by the Commons to be in a Bill by itself; and the joining together, in a Money-Bill, Things so totally foreign to the Methods of raising Money, and to the Quantity or Qualification of the Sums to be raised, is wholly destructive of the Freedom of Debates, dangerous to the Privileges of the

Anno 12 Will. III. 1699. Lords, and to the Prerogative of the Crown : For by this Means Things of the last ill Consequence to the Nation may be brought into Money Bills, and yet neither the Lords, nor the Crown, be able to give their Negative to them, without hazarding the Public Peace and Security : And it seems a great Hardship to the Counties and Places, who chose such Members, to deprive them of their Services, since they knew them to be Commissioners of Excise at the Time they chose them ; and since the Commons admit them to be proper Persons to serve either in Excise or Parliament, tho' not at the same Time ; so that there seems to be no other Reason of distinguishing these Commissioners, but what is common to all other Officers of the Crown ; and the Question whether such an Alteration may be convenient, must needs be a Doubt with the Lords, since the Commons have not been able this very Session to satisfy themselves with the Bill and the Considerations they have entertained upon that Subject : The Lords do seriously consider the Dangers and Inconveniences that are likely to happen by the Loss of this Bill, and by the Difference betwixt the two Houses, and are heartily sorry for them, and desirous to avoid them by all the Means they can ; as does manifestly appear, by having complied and overlooked the Irregularities of Bills of the like Nature, and, at the same time, by entering in their Books, to be seen by every Body, their just Sense of the Wrong, and their Resolutions of asserting that fundamental Right, of the Exercise of which there are many Precedents extant in their Books : But since they find, that such their kind Intentions of maintaining a good Correspondence with the Commons have had no other Effect, but to introduce greater Impositions upon them, and such as will certainly prove destructive to the ancient and excellent Constitution of our Government, since the Lords have no Objection to the Resumption, nor no Design to invade the least Right of the Commons, but only to defend their own, that they may transmit the Government and their own Rights and Privilege to their Posterity in the same State and Condition that they were derived down to them from their Ancestors ; they think themselves wholly discharged from being in the least accessory to any such Dangers or Inconveniences, and conceive they are sufficiently justified before God and Man, notwithstanding such Innovations and Invasions upon our Constitution and our Laws as must necessarily prove the Destruction of them.

Norfolk, E. M. Mabun, Haverham, Say and Seal, Anglesea, R. Ferrers, Raby, J. Bridgewater, Culpeper, Horwood,

ord, Southampton; Sandwich, Lonsdale, Bergevenny, Stamford, Audley, Herbert, Richmond, Pembroke, Bolton, North and Grey.

Anno 12 Will. III. 1700.

For a further Illustration of this Debate between the two Houses see CHANDLER's *Hist.* Anno 11 W. III. 1700, Page 126; as likewise, Page 127, the King's Speech at proroguing the Parliament, which in December was dissolved.

Nowithstanding the second Partition-Treaty in favour of France, occasion'd by the Death of the Electoral Prince of Holland, King sets out for Bavaria, had been compleated in March, his Majesty had till other Calls to Holland, and, accordingly, embarked at Margate, June the 28th.

But the King's Absence; Custom had taught the Nation to support; the Death of the Duke of Gloucester, which happened July the 29th, was a sudden Blow, then severely felt, and both now and ever to be lamented: Even the King is said to have been touched with the premature Loss of this young and hopeful Prince, but was nevertheless so careful of the Protestant-Interest, that, in the September following, he admitted a Visit from the Princess Sophia; at which Interview no doubt the Succession was not forgot, since, in his Speech to the new Parliament, he recommended it very strongly to their Consideration.

October the 18th; His Majesty landed from Holland, and And that of the November the 1st, N. S. the King of Spain died, having some little Time before bequeath'd his Crown by Will to Philip Duke of Anjou, second Son to the Dauphin, in Resentment of the Partition-Treaty; who, in Violation of that Treaty, was soon after declared King of Spain by the Court of France, and even acknowledged as such, notwithstanding, by King William and the States-General.

Europe was in this Situation, when

The Fifth Parliament of King WILLIAM

WAS opened at Westminster, February the 6th, with a Speech from the Throne to both Houses, which see in CHANDLER's *History*, Anno 12 Will. III. 1700, Page 127, and the next Day was communicated to King both Houses, by his Majesty's Order, a Letter, which came very providentially to his Hands, out of France, whether by a Mistake of the Officers of the Post-house at Paris, or the Dexterity of King William's Spies at the Court of St. Germain, is uncertain. This Letter it seems was sent by the Earl of Melfort, to his Brother the Earl of Perth, then Governor to the Prince of Wales, and contain'd in general a

Anno 12 Will. III. 1700. Project for the Restoration of King James. The Lord presented an Address, ' humbly returning their Thank and Acknowledgments to his Majesty, for the Concern express'd in his Speech for the Protestant Religion, and his Care for its Preservation, by recommending to their Consideration for a further Provision for the Succession to the Crown in the Protestant Line.' They added, ' That, being deeply sensible of the Weight of what his Majesty had further recommended to them, they could not but desire he would be pleas'd to order all Treaties made by him since the late War, to be laid before them, that they might thereby be better enabled to give their Advice. Withal they requested his Majesty to engage in such Alliances a broad, as he should think proper for preserving the Ballance of Europe, assuring him they would readily concur with whatever should be conducive to the Honour and Safety of England, Preservation of the Protestant Religion, and the Peace of Europe. Next, they humbly thank'd his Majesty for communicating the beforemention'd Letter to them, and desir'd he would be pleased to order the seizing of all Horses and Arms of Papists, and other disaffected Persons, and have those ill Men removed from London according to Law; but especially they desired he would please to give Directions for a Search to be made after Arms and Provisions of War mentioned in the said Letter. Lastly, They requested that such a Fleet might speedily be fitted out as his Majesty in his great Wisdom should think necessary for the Defence of himself and Kingdoms.' His Majesty thank'd their Lordships for this Address, and assured them he would take Care to perform all that they had desired of him.

King's Answer.

Motion for the Countess of Anglesea, to bring in a Bill of Separation.

March the 3d, An Account was given to the House by certain Lords appointed to visit the Countess of Anglesea, in order to persuade her to return to her Husband, of her Reasons for her Refusal; and after hearing the Earl of Anglesea, and reading the Countess's Petition, and Debate thereupon,

The Question was put, Whether the Countess of Anglesea shall have Leave to bring in a Bill for a Separation for Cruelty, as is prayed for in her Petition?

It was resolved in the Affirmative.

Dissentient

Protest thereon.

1st, The Leave for this Bill is founded upon the Supposition of an utter Impossibility of a Reconciliation between my Lord Anglesea and the Countess; which Supposition (with Submission) seeming to me very precarious, tho' it may be the Consequence of such a Bill, cannot, to me, be the Reason for it.

2^{dly},

2dly, Marriage being looked upon in the Church of *Rome* as a Sacrament always, and in all Cases indissoluble, but by the pretended Authority of the infallible Vicar, and there being, in some Cases, an absolute Necessity for a Divorce, the *Roman* Courts of Judicature, fearing to expose the Weakness of the Infallibility, contrived this Trick of a separate Maintenance; which Practice of theirs, I humbly conceive, such a Bill would give too much Countenance to.

3dly, A perpetual separate Maintenance, as seems intended by such a Bill, is a much heavier Judgment upon the Earl of *Anglesea* than Divorce itself; it having all the Nature of a Punishment to my Lord *Anglesea*, and nothing of Ease; and is directly contrary to the very Appointment and Design of Marriage, Posterity and Society being destroyed, and the Public injured thereby.

4thly, No Judgment in this Matter (as I humbly conceive) ought to be made, or when made can be valid, but what is expressly allowed of by the Evangelic Law, which Law, to me, seems no where to permit of such a perpetual Separation, without an absolute Divorce.

5thly, Tho' it cannot be doubted, but in the Course of so many Ages, as great domestic Differences have happened between Men and their Wives as in the present Case, yet no Precedent has as yet been produced, as I know of, of any Bill of the like Nature.

Haverfham.

March the 8th, After reading Captain * *John Norris*'s Petition of the 7th Instant, as also his Instructions from the Admiralty, and some Councils of War held on Board, at *New- foundland*, and long Debate upon the whole Matter,

*Captain Norris's
Suspition taken
off.*

The Question was put, Whether the said Captain, having lain near two Years under a Suspension upon an Address from this House to his Majesty, that an Address shall be made to his Majesty to take off the said Suspension he lieth under?

It was resolved in the Affirmative.

Oppositor

For that Captain *Norris* having been accused by many Witnesses, upon Oath, of great Neglect of his Duty, in not Protecting them, attacking Monsieur *Ponti*'s Ships in *Conception-Bay*, notwithstanding the Intelligence given of them to him by Captain *Deborow*, *Cumberbatch*, and several Prisoners, and of pestering his Ship with Prize-Goods, which he has embezzled; and thereupon this House having made an Address to his Majesty, to order Captain *Norris* to attend this House to answer such Matters as had been so objected against him, and that,

* Afterwards knighted, and made an Admiral.

Attd 22 Will. III. 1700. that, in the mean time, he should be suspended from his Employment, which his Majesty has been pleased to order; and accordingly Captain *Norris* having appeared before us, but the Matters not having been fully examined, by hearing at this time the Witnesses either against him or for him, we conceive it very improper to make any such Address in his Favour, he being, for all as yet appears to us, guilty of the Matters charged upon him; and we are the more convinced of this, because the Motion made of remitting Captain *Norris* to a Trial, by a Council of War, was not accepted; and besides the Unreasonableness of passing any Sentence of acquitting a Man accused, upon Oath, without a full Hearing of the Cause, we think it also of very dangerous Consequence that, in this Conjunction especially, a Man should be capable of being employed in so important a Station as in the Fleet, who lies under the heavy Charge of embezzling Prizes; and pestering his Ship with them, and of failing to attempt a Service which would have been of vast Advantage to us, and Prejudice to our Enemies.

Willoughby, Leeds, Howard, Normanby, Jeffreys, Poulet, Nottingham, Thanet, Torrington, Weymouth, Oxford, Granville.

Earl of Portland charged with having advised the Partition-Treaty.

About the Middle of this Month, perhaps the 14th, the Lords taking the Partition-Treaty into Consideration, some Days after, they loudly expressed their Disapprobation thereon, which they wholly laid at the Earl of Portland's door. His Lordship however excused himself by saying, That the Duke of *Leeds*, the Earls of *Pembroke, Jersey* and *Marlborough*, the Lords *Sommers* and *Hallifax*, and Mr. *Vernon*, had their Share in that Negotiation as well as himself; whereupon the Peers his Lordship had named did readily acknowledge, that they had, indeed, seen the rough Draught of the Treaty, but that the Earl of Portland had drawn it up by himself in *French*; and as for themselves, that they had neither given, nor refused their Consent to it; because the Treaty was never communicated to the Privy-Council. Upon this Occasion the Marquis of *Normanby* made an eloquent Speech, which was generally applauded; and because some Peers had spoke very reflectingly of the King of *France*, (the Earl of *Rochester* took them up, and said, That all Men ought to speak respectfully of Crown'd-Heads, and that this Duty is more particularly incumbent on the Peers of a Kingdom, who derive all their Honour and Lustre from the Crown. This was backed by another Earl, who said, That the King of *France* was not only to be respected, but likewise to be feared: To whom another Member of that illustrious

Marquis of Normanby.

Earl of Rochester.

House of Assembly replied, That he hoped, no Man in *England* needed be afraid of the *French* King; much less the Peer who spoke last, who was too much a Friend to that Monarch to fear any thing from him. After a long and warm Debate, the Lords sent a Message to the Commons, to acquaint them, ' That there having been lately a Treaty made with *France*, extremely dangerous in itself, and translated also in a most irregular manner, the Lords had thought it to communicate it to the House of Commons, and to desire them to appoint a Committee for meeting a Committee of the Lords, in order to their joint Consideration of some Method to be used in making such an Application to his Majesty about this Matter, as might for the future prevent any Proceedings of this kind.' At the same time the Lords desired the Commons, that Mr. *Vernon*, one of their Members, might come to a Committee of the Upper House, to give an Account of some Matters relating to the Treaty of Partition, which the Commons readily granted.

March the 15th, The Earl of *Nottingham* reported from Facts as to the Committee appointed to draw up and state the Facts, as to the Treaty of Partition, that they had thought proper to set down such Facts as appeared to them.

And the second Head being read, *viz.* That the Emperor was not a Party to this Treaty, tho' principally concerned,

The Question was put, Whether this Paragraph shall stand?

It was resolved in the Negative. Contents 24; Not contents 40.

Dissentient

1st, Because it is manifest by the Treaty itself, that the Protest thereon. Matter of Fact is true.

2dly, Because the Emperor, as we conceive, had been the most proper to have treated with on this Occasion, for 'twas more prudent and safe to have treated with the Emperor to have restrained the Pretensions of *France*, than with *France* to lessen the Dominion of the House of *Austria*, which, in its full Strength, and in Conjunction with the most considerable Powers in *Europe*, and with the Expence of more than fifty Millions *sterl.* to our Share, was scarce able to withstand the Arms of *France*.

3dly, But, admitting that the Emperor was not the most proper to be treated with, yet, to prevent the Umbrage that might be taken by uniting too many Dominions under one Prince, especially such a Prince as, without any Additions, was formidable to all *Europe*, of all others the Emperor was the most improper to be left out of such a Treaty, for he was most concerned in it; and our Ministers could not, or

at

Anno 12 Will.
III. 1700.

Message to the Commons relating to the said Treaty.

Anno 12 Will. III. 1700. at least did not, sufficiently support his Interest, or the just Ballance of Europe; but, on the contrary, as we are informed, by one Lord who signed the Treaty, it was concluded against the express Desire of the Emperor.

De Longueville, Howard, Thbanet, Craven, Hereford, Tho. Roffen', Granville, Scarfdale, Jeffreys, Leeds, Weymouth, Abingdon, Normanby, Guilford, Nottingham, Poulett.

Third Head.

Then the third Head was read, *viz.* That no Minister of the States-General met with the Plenipotentiaries of *England* and *France*, as were required by the Powers at the making the Treaty in *London*.

The Question was put, Whether this Paragraph shall stand?

It was resolved in the Negative.

Dissentient'

Protest thereon.

1st, Because the Truth of this Proposition is Reason enough for asserting it, and it must certainly be of fatal Consequence, if Ministers, without any Directions by Instructions in Writing, shall presume to act contrary to the very Commission that empowers them; and, in this Case, the Assistance of the Dutch Ministers was the more necessary, because the Emperor was no Party to this Treaty, and the States-General are more immediately concerned, than we are, to promote his Interests,

2^{dly}, But if this Treaty was concerted with the Dutch Ministers in 1699, before his Majesty's Return into *England*, as was asserted by one of the Lords who signed it afterwards in *London*, then,

1st, This Treaty was made by those who had no Authority to transact it, for the Power was not granted by his Majesty till the 2d of *January* following.

2^{dly}, As they acted without Power, so without Instructions too in Writing, which never was practised in any former Transactions abroad.

Lastly, We conceive, that neither of the foregoing Facts ought, in Reason, or according to the Method of Parliament, to be ordered to be omitted, because, till the Committee had formed the Address, pursuant to the Order, 'twas impossible to know what Use would be made of those Facts; for as they might have been improperly applied, and then would have been justly rejected, so there might have been so great use made of them, and so opposite to the Design of the House, in the intended Address, that it will be improper to omit them.

Thbanet, Leeds, Tho. Roffen', Hereford, De Longueville, Granville, Craven, Weymouth, Normanby, Howard, Jeffreys, Abingdon, Nottingham.

The

The 18th, After Debate concerning the Treaty of Partition, it was proposed, that it appears, that the French King's Acceptance of the Will of the King of Spain is a manifest Violation of the Treaty, and humbly to advise the King, that, in all future Treaties with the French King, his Majesty do proceed with such Caution as may carry along with it a real Security.

After Debate thereupon, the Question was put, Whether the said Proposal shall go to the Committee to be one of the Heads for the Address?

It was resolved in the Affirmative.

Dissentient'

1st, Because it must be construed to be an Approbation of Protest thereon, the Treaty, which (as we conceive) was not intended by the House.

2dly, Because it is impossible to know the full Meaning and Extent of real Security.

Nottingham, Granville, Normanby, Rochester, Weymouths, Abingdon, Guilford, Godolphin.

The 20th, An Address to his Majesty touching the Treaty of Partition was reported and agreed to.

And the Question being put, Whether this Address shall be communicated to the House of Commons for their Concurrence?

It was resolved in the Negative. Contents 27; Not contents 45.

Dissentient'

1st, Because, we conceive that the last Clause in the Address does necessarily imply a War, and that a very long one, by reason of the Extent, unintelligible at least to us, of a real Security, and the greatest Improbability of obtaining any Terms of that kind; and since this necessarily implies great Supplies, which cannot be granted without the House of Commons, we think their Concurrence, in this Advice, absolutely necessary, and that it is very improper for us to desire that of the King, which, for want of such Concurrence of the Commons, we conceive, his Majesty will not think fit or prudent to grant.

2dly, We conceive all the other Parts of the Address very fit to be communicated to the House of Commons, for upon the Success of it depends the future Happiness of this Nation; and as we cannot doubt of the Readiness of the Commons to join in any proper Measures towards it, so we think their Concurrence in it would highly contribute towards the obtaining a gracious Answer from his Majesty; and we cannot but think it reasonable that the Advice of the whole Na-

Anno 12 Will.
Illi. 1700.

Question relating to the French King's Acceptance of the King of Spain's Will.

Address touching the Treaty of Partition

Not to be communicated to the Commons.

Anno 12 Will. III. 1700. tion, assembled in Parliament, should be made known to his Majesty upon this Occasion.

3dly, Having desired the House of Commons to permit Mr. Secretary *Vernon*, a Member of their House, to come to a Committee of Lords to inform them of some Matters relating to this Treaty; we apprehend, that the House of Commons may think it extraordinary, and not suitable to the good Correspondence which is highly necessary between the two Houses, not to acquaint them with the things which have come to our Knowledge, partly by the Information of their own Member.

4thly, And having been otherwise informed of some Transactions relating to this Treaty between the Earl of *Portland* and Mr. Secretary *Vernon*, by Letters, of which we have not had a full Account, we think it may be very useful to the Public to communicate this Address to the Commons, who have better Opportunity than we have had of enquiring into this Matter, which seems to be yet in the dark, and which their own Member may help to explain to them.

Leeds, De Longueville, Weymouth, Jeffreys, Guilford, Tho. Roffe', Poulet, Bath, Abingdon, Craven, Willoughby, Kent, Carnarvon, Nottingham, H. London, Normanby, Hunsdon, Thanet, N. Duresme, Scarsdale, Granville,

A Counter-Address to one of the Commons, relating to the Removal of certain Lords from the King's Presence.

On Occasion of this Treaty the Commons impeached the Earl of *Portland*, the Earl of *Oxford*, Lord *Somers*, and Lord *Hallifax*; and addressing his Majesty to remove them from his Presence and Councils, it drew from the Peers a Counter-Address, which, being carried by a Majority of twenty, occasioned the following Protest:

Dissentient'

1st, Because, we conceive, it is contrary to the Method of Proceeding in Parliament, to take notice in this House of what is represented only, by some Lords, to have passed in the other.

2dly, And it is not proper to address the King on a Subject that is not before this House to judge of, which may engage this House in what is indecent towards his Majesty, and may be of ill Consequence between the two Houses.

Scarsdale, Normanby, Carnarvon, Thanet, Ormond, Kent, Townshend, Abingdon, Jonat. Exon', Lexington, H. London, Sandwich, Cholmondeley, Weymouth, Aſburnham, Hereford, Granville, Guilford, Willoughby, Rochester, Howard, Poulet, Weston, Jeffreys, Dartmouth.

Half Protestation to be expunged.

But Exception being taken to the beforementioned Protestation, the Protestation was read;

And after Debate, the Question was put, Whether the first Reason in the Protestation shall stand?

It was resolved in the Negative. Contents 22 ; Not con- Anno 13 Will.
text 28. III. 1701.

Then the second Reason in the Protestation was read.

After Debate, the Question was put, Whether the second Reason in the Protestation shall stand ?

It was resolved in the Negative.

The foregoing Reasons were order'd to be expunged, but the above may be depended upon as a genuine Copy.

*Dissentient**

Because it is the Privilege of the Peers to enter their Dif- Protest thereon-
fent, and it has been the ancient Practice to enter also their
Reasons of such Dissent, of which the Lords that so protest
are the most proper Judges, as well knowing what Argu-
ments persuad'd them to be of that Opinion ; and no Reasons
can be more proper than such as they conceive are founded
upon Matter of Fact.

*Sandwich, Carnarvon, Fowlesham, Rochester, Weymouth,
Howard, Granville, Poulet, Lexington, H. London, Jo-
nat. Exon, Willoughby, Ormond, Normanby, Thanet,
Scarsdale, Townshend, Abingdon, Dartmouth, Weston, Guil-
ford, Jeffreys.*

The Address itself was to the following Purpose ; ' That The said Ad-
' the Commons having severally impeached, at the Bar of dress.
' their House, the Earls of Portland and Orford, and the
' Lords Somers and Hallifax, of High Crimes and Misde-
' meanors, and having acquainted their Lordships that they
' would, in due time, exhibit particular Articles against
' these impeach'd Lords, and make the same good ; they
' most humbly besought his Majesty, that he would be pleas-
' ed to pass no Censure upon them, till they were tried upon
' the said Impeachment, and Judgment were given, accord-
' ing to the Usage of Parliament and the Laws of the Land.'

To this Address, tho' presented by the Duke of Devonshire, The King re-
and the Earl of Romney, two Persons greatly in the King's turns no An-
interest, his Majesty gave no manner of Answer ; at which swer.
the House of Lords were somewhat piqued, and thereupon
appointed a Committee to enquire, if there was any Prece-
dent of the King's Silence upon the like Occasions.

This drew on a long and vehement Controversy between the
two House (to be found in CHANDLER's Hist. as likewise the
Articles against the four Lords, and the Replies, Anno 13 Will.
III. 1701, from page 147 to 182,) in the Course of which
occur'd the following Particulars, being all that are necessary
to render the History of that remarkable Affair complete.

July the 3d, Report was made of an Answer, drawn by Answer to the
a Committee, to be sent to the House of Commons, to their Commons re-

anno 13 Will. III. 1701. Message received the 31st of May last, relating to the Impeachments now depending against the four Lords.

First and second Paragraphs read.

And the first Paragraph being read, was agreed to.

Then the second Paragraph was read as follows, *viz.*

(And as the Lords do not controvert what Right the Commons may have of impeaching in general Terms, as they please, so the Lords, in whom the Judicature does entirely reside, think themselves obliged to assert, that the Right of determining what is a due Time, in which the particular Articles of Impeachment ought to be exhibited is lodged in them only.)

Amendment propos'd,

It being proposed that an Amendment be made in this Paragraph, that instead of the Words, *viz.* (Determining what is a due Time in which the particular Articles of Impeachment ought to be exhibited, is lodged in them only) these Words may be inserted, *viz.* (Limiting a convenient Time for bringing the particular Charge before them for the avoiding Delay in Justice, is lodged in them.)

After Debate, the Question was put, Whether the second Paragraph, so amended, shall stand?

And agreed to.

It was resolved in the Affirmative. Contents 43; Not contents 27.

Protest thereon.

Dissentient'

Because, we conceive, this Assertion is new.

Normanby, Oxford, Jonat. Exon', Weymouth, Jeffreys, Lindsey, Howard, Nottingham, H. London, Lexington, Plimouth, Guilford, Lawarr, Hunsdon, Marlborough, Tho. Roffen', Rochester, Granville, Cholmondeley, Dartmouth, Godolphin.

Last Paragraph.

Then the last Paragraph was read, as follows, *viz.*

(The Lords hope the Commons, on their Part, will be as careful not to do any thing that may tend to the Interruption of the good Correspondence between the Houses, as the Lords shall ever be on their Part; and the best Way to preserve that, is for neither of the two Houses to exceed those Limits which the Law and Custom of Parliaments have already established.)

And, after Debate, the Question was put, Whether the last Paragraph shall stand?

Agreed to.

It was resolved in the Affirmative.

Dissentient'

Because we know not that the Law and Custom of Parliaments have established any certain Limits.

Normanby, H. London, Rochester, Oxford, Guilford, Howard, Dartmouth, Cholmondeley, Nottingham, Tho. Roffen', Abingdon, Granville, Lexington, Plymouth, Hunsdon, Marlborough,

brough, Jonat. Exon', Weymouth, Jeffreys, Lindsey, La- Anno 13 Will.
warr, Godolphin. III. 1701.

The 9th, It being moved to have a Conference with the Resolution not Commons, to let them know, that the Lords do not agree to have a Committee of both Houses in relation to the Trials of the impeached Lords ; after Debate thereupon, ^{House in relation to the}

This Question was put, Whether a Committee of this House shall be appointed to meet with a Committee of the impeached House of Commons, in relation to the Proceedings upon Lords, the Impeachments ?

It was resolved in the Negative,

Dissentient

Because the Lords, in the Year One thousand six hundred Protest thereon, seventy-nine, consented to a Committee of Lords and Commons, for regulating the Trials of the Popish Lords ; and therefore the refusing to comply with the Commons in the same Request, at this Time, will be (in our Opinion) a great Obstacle to the Trials of the impeached Lords.

*Somerset, Denbigh, Lawarr, Jonat. Exon', Oxford, Peter-
 brough, Dartmouth, Derby, Rochester, Guilford, Carnar-
 von, Lexington, Nottingham, Howard, Normansby, Wey-
 mouth, Torrington, Marlborough, Abingdon, H. London,
 Godolphin,*

The 11th, The Message received Yesterday from the House of Commons was read ; and after Debate of the several Particulars contained in it,

This Question was proposed, That no Lord of Parliament, impeached of high Crimes and Misdemeanors, and coming to his Trial, shall, upon his Trial, be without the Bar.

Then the previous Question was put, Whether this Question shall be now put ?

It was resolved in the Affirmative.

Dissentient

Because, however reasonable this Proposition may appear Protest thereon. to us, yet we conceive it very improper to determine it, before we have heard what the Commons can say upon it.

*Nottingham, Jonat. Exon', Abingdon, Weymouth, Tho. Rof-
 fen, Guilford, H. London, Rochester, Torrington.*

The 11th, A Message was sent to the House of Commons by Sir John Hoskins and Dr. Newton, to acquaint them, that Commons for upon the Occasion of their last Message Yesterday, in order to conclude a good Correspondence between the two Houses, their Lordships did immediately appoint a Committee to state

Anno 13 Will. III. 1701. state the Matter of the free Conference, and also to inspect Precedents of what has happened of the like Nature; and that the public Business may receive no Interruption, the Time desired by their Lordships for renewing the free Conference being elapsed, their Lordships desire a present free Conference in the Painted Chamber upon the Subject-matter of the last free Conference.

Dissentient'

Protest thereon. We conceive it to be improper, and not agreeable to the Methods of Parliament, to send for a second free Conference before the first is determined, or that there is a Vote of the House passed for insisting.

Denbigh, Weymouth, Carnarvon, Dartmouth, Lawarr, Abingdon, Peterborough, H. London, Jonat. Exon', Tho. Roffe'.

Resolution not to have a Committee of both Houses touching the Trials of the impeached Lords, insisted upon.

The House being moved to insist not to have a Committee of both Houses touching the Trials of the impeached Lords,

After Debate thereupon, the Question was put, Whether this House shall insist upon their Resolution of not allowing a Committee of both Houses?

It was resolved in the Affirmative.

Dissentient'

Protest thereon. We conceive it to be improper, and not agreeable to the Methods of Parliament, to pass a Vote for insisting, before the first free Conference is determined; or if it be determined, as we conceive it is not, the Vote for insisting should have preceded the Message for a second Conference.

Abingdon, Weymouth, Carnarvon, Jonat. Exon', Thonet, Lawarr, Peterborough, Dartmouth, Nottingham, H. London.

Lord Haverfham to be declared innocent of the Charge sent up against him by the Commons, having been sent down to that House,

Commons Charge, unless it be prosecuted. It was proposed to resolve, that unless the said Charge shall be prosecuted against the said Lord Haverfham, with Effect, by the Commons, before the End of this Session of Parliament, the Lords will declare and adjudge him wholly innocent of the said Charge.

The Question was put, Whether such a Resolution shall be agreed to?

It was resolved in the Affirmative.

Dissentient'

Protest thereon. 1st, Because the Justice of our Judgment of acquitting the Lord Somers depending on our Right to name a peremptory Day, I do conceive that by this Vote that Right is violated,

* See CHANDLER's Hist. Anno 13 W. III. 1701. Page 165.

lated, the Commons being by it allowed to declare when *Anno 13 Will.* they are ready to prosecute, before any Day is by us named. *III. 1701.*

2dly, Because having thought fit to name a Day for the Impeachment of the Lord Somers, to be consistent to ourselves, we ought to pursue the same Methods: Nor does this, being a Charge only, alter the Case; for what is done in Matters of greater Moment may safely be pursued in Cases of less Concern.

3dly, Because, to me, there does not seem any need of further Prosecution on the Commons Part in this Matter, the Fact and the Nature of it being both fully before us.

North and Grey.

The 23d, The House resumed the adjourned Debate upon printed Votes of the Commons the printed Votes of the House of Commons of the 20th instant:

And it was resolved, upon the Question, that whatever ill Consequences may arise, from the so long deferring the Supplies for this Year's Service, are to be attributed to the fatal Council of putting off the meeting of a Parliament so long, and to the unnecessary Delays of the House of Commons.

Dissentient'

Because tho', I humbly conceive, it is evident to all Englishmen, that nothing could be more fatal to the Interest of Europe, to the Interest of the Protestant Religion, and the Safety of England, than the so long Delay of the meeting of a Parliament after the Death of the King of Spain, yet I cannot agree to the latter Part of this Vote, which lays Imputations of unnecessary Delays to this House of Commons.

Peterborough.

The next Day the King came to the House of Peers, and Parliament put an End to the Session with a Speech, to be found in *rogued.*

CHANDLER's Hist. Anno 13 W. III. 1701, Page 183.

And July the 1st embarked for Holland. A Fleet of Observation or Amusement was set forth this Summer, but performed nothing.

September the 6th, died at St. Germains, the unfortunate King James King James, and his Son was immediately proclaim'd King dies, and his Son is pro- of England, by the Court of France; upon which notorious claim'd by the Affair the Earl of Manchester took his Leave of Paris, and Court of France. the French Resident here was order'd to depart the Kingdom: About the same time the Grand Alliance was formed between The Grand Alliance form'd. Emperor, the King of England, and the States of Holland.

Nov. the 4th, His Majesty landed in England, dissolved the Parliament dissolved the 11th, and on the 31st of December, the Commons having the Day before chose their Speaker, opened his

SIXTH

SIXTH PARLIAMENT

WITH a Speech to both Houses, which see in
CHANDLER's History, Anno 13 Will. III. 1701.
which was answer'd first by a joint Address of both
Lords and Commons, and then by each House apart: That
of the Peers being as follows:

Lords Address.

WE your Majesty's most loyal and dutiful Subjects,
the Lords spiritual and temporal in Parliament as-
sembled, are highly sensible of what we owe to Almighty
God, for the great Deliverance he hath wrought for us by
your Majesty. We are highly sensible of his Mercies in
preserving you hitherto, in so many public and private
Dangers to which your sacred Person hath been exposed;
and we hope the same Providence will carry your Majesty
thro' the great Work (which seems reserved for you) the
reducing the exorbitant Power of France, and maintaining
the Balance of Europe.

All true Englishmen, since the Decay of the Spanish
Monarchy, have ever taken it for granted, that the Secu-
rity of their Religion, Liberty and Property, that their
Honour, their Wealth, and their Trade, depend chiefly
upon the proper Measures to be taken from time to time
in Parliament, against the growing Power of France: But
it is their peculiar Blessing in your Majesty's Reign, to
have a Prince upon the Throne, who not only agrees with
them in this Opinion, but who, in the frequent Parlia-
ments assembled, is ever reminding them of this their
greatest Concern; and who, to complete their Happiness,
is always ready, with the Hazard of his Person, to support
his Subjects and Allies against their common Enemy.

And we esteem it a further good Fortune, in this Time
of public Danger, that the French King has taken those
Measures, which will make it impossible for him to impose
any more upon the World, by Treaties so often violated:
Neither can he hope any longer to cover his ambitious De-
signs, or justify his Usurpations under the specious Pre-
tences of Peace.

Your Majesty hath so justly represented the Danger to
which Europe is exposed, by the French King's placing his
Grandson on the Throne of Spain; your Majesty is so
justly sensible, that, under that Pretence, he is become abso-
lute Master of the whole Spanish Monarchy; and we are
all so well apprized of the dangerous Consequence of this
bold Attempt, that we think it most proper to assure your
Majesty

Majesty in your own Words, that we are under the highest Anno 14 Will. III. 1701.
 Impatience, that speedy and effectual Measures may be taken, against the undoubted Ambition of the French King.

And as the placing his Grandson upon the Throne of Spain is visibly, to the whole World, the Cause of all those Dangers mentioned in your Majesty's Speech, and of the Breach of the Balance of Power in Europe, which the People of England are so deeply engaged to preserve; so we humbly conceive the Remedy is as apparent as the Disease; and that your Majesty, your Subjects and Allies, can never be safe and secure, till the House of Austria be restored to their Rights, and the Invader of the Spanish Monarchy brought to Reason.

To conclude, Sir, as we humbly addressed to your Majesty last Parliament, to enter into Alliances with the Emperor, the States of Holland, and all other Princes and States, willing to unite against the Power of France; so we take the Liberty at this time to assure you, we are all willing and zealous to lay hold of this Opportunity, which the Blessing of God, and your Majesty's Care, have put into our Hands; resolving to make our utmost Efforts for our own Security, and the Support of our Allies; desiring of your Majesty to rest assured, that no time shall be lost, nor any thing wanting on our Part, which may answer the reasonable Expectations of our Friends Abroad; not doubting but to support the Reputation of the English Name, when engaged under so great a Prince, in the glorious Cause of maintaining the Liberty of Europe.'

His Majesty returned this Answer.

My Lords,

I AM extremely pleased to find the just Sentiments you Kings Answer have of the present State of Affairs, and your Readiness to do your Part in this great Conjunction. I hope our joint Endeavours will be successful for restoring the Balance of Europe, and establishing our common Security."

February the 20th, *Hodie 3^a vice lecta est Billa*, entitled, Late King An Act to attaint Mary, late Wife of the late King James, James's Wife of High Treason, attainted.

The Question was put, Whether this Bill shall pass?

It was resolved in the Affirmative. Contents 28; Not contents 18.

Because there was no Proof of the Allegations in the Bill Protest thereon so much as offered, before the passing of it, which is a Precedent that may be of dangerous Consequence.

Anno 14 Will.
III. 1701.

Winchelsea, North and Grey, Bradford, Craven, Gylfes,
Weymouth, Faversham, Jeffreys, Plymouth, Scarsdale,
Dartmouth, Starwell, De Longueville, Northampton,
London.

Bill for the Security of his Majesty's Person.

The 24th, *Hodie 3^a vice letta est Billa*, entitled, *An Act for the further Security of his Majesty's Person, and the Succession of the Crown in the Protestant Line, and for extinguishing the Hopes of the pretended Prince of Wales, and other Pretenders, and their open and secret Abettors.*

After Debate the Question was put, Whether this Bill with the Amendments, shall pass?

It was resolved in the Affirmative.

Dissentient'

Protest thereon.

1st, We conceive that no new Oath should be imposed upon the Subject, forasmuch as those established by an Act made in the first Year of the Reign of his Majesty and the late Queen *Mary* were, together with our Rights and Liberties ascertained in that Act under the Terms of our Submission to his Majesty, and upon which his Majesty was pleased to accept the Crown; and which were enacted to stand, remain and be the Law of this Realm for ever; and which, we conceive, do comprehend and necessarily imply all the Duty and Allegiance of the Subject to their lawful King.

2^{dly}, And much less should any new Oath be imposed upon the Lords, with such a Penalty as to lose their Seats in Parliament, upon their refusing it; such a Penalty being, in some measure, an Intrenchment upon our Constitution, and especially contrary to the standing Order of this House, made the 30th Day of April, 1675.

3^{rdly}, And if such an Infringement of the Rights of Peers might be admitted, yet, in a Matter of so great Importance to all the Peers, we conceive, that in Justice they should have had Notice of this Matter, and specially summoned to have attended the House upon so great an Occasion; which has not been done, tho' it was moved and humbly desired on behalf of the absent Lords.

4^{thly}, And if any further Evidence of the Subjects Fidelity were, at this time, necessary to be required, we conceive that a new Oath is no such Evidence, nor any additional Security to the Government; because those who have kept the Oath which they have already taken, ought in Justice to be esteemed good Subjects; and those, who have broken them, will make no Scruple of taking or breaking any others that shall be required of them: And consequently this new Oath may be of dangerous and pernicious Consequence to the Government, by admitting such ill Men, who do not fear an Oath in

into the greatest Trusts, and who, under the specious Pretence Anno 1 Anne, and Protection of this new Oath, which is to free them from 1701. Suspicion, will have greater Opportunities of betraying their King and their Country.

5thly, If a new Oath were necessary, as we conceive it is not, yet the Words of this Oath are so very ambiguous, and have been so very differently construed by several Lords who have declared their Sense of them, that this may become a Scare to Men's Consciences, or tend to overthrow the Obligation of an Oath, by allowing Men Liberty to take it in their own Sense; whereas this, as all other Oaths, ought to be taken in the Sense of the Imposer, which hath not been declared in this Case, tho' we earnestly pressed it, and tho' it has been done in other Cases of the like Nature.

6thly, And, we conceive, that it necessarily follows from hence, that this Oath can be no Bond of Union among those who do take it, nor any true Marks of Distinction between the Friends and the Enemies of this Government; and therefore repugnant to the very Nature of a Test.

*Winchelsea, Denbigh, Guilford, Craven, Weymouth, Plymouth,
Nottingham, Scarsdale, Starwell, Jeffreys.*

The first Reason of the above Protest, tho' ordered to be expunged, may be depended upon as a genuine Copy.

Two Days after this, the King was thrown from his Horse, Death of King and March the 8th departed this Life, in the fifty second William. Year of his Age and the fourteenth of his Reign. The Princess of Denmark was the same Day proclaimed, and Queen Anne the 11th made her first Speech to both Houses, which see proclaimed. in CHANDLER's *Hist. Anno 1 Anne 1701, Page 198.*

In the following Month, her Majesty made great Alterations both in her Court and Ministry, by distributing her Favours among those who had appear'd most zealous for the Church and the Prerogative: Such as the Marquis of Northampton, the Earl of Nottingham, the Earl of Abingdon, the Earl of Northampton, Sir Edward Seymour, Sir John Lewison Gouer, &c.

May the 4th, Her Majesty declared War with France, which was left to the Conduct of the Earl of Marlborough, and the Treasury to the Lord Godolphin.

The 5th, the Lords presented the following Address:

WE, your Majesty's most dutiful and loyal Subjects, Lords Address. the Lords Spiritual and Temporal in Parliament assembled, do return your Majesty our most humble Thanks, for laying before us the Convention made by your Majesty with the Emperor, and the States-General, in order to

Anno i Annæ, 1701. a concurrent Declaration of War against *France* and *Spain*
 and of your Royal Intention to declare the War accordingly; and beg leave to assure your Majesty, that we shall never be wanting to give your Majesty our utmost Assistance in the prosecuting so just and necessary a War, on the good Success whereof, under God, the Welfare of these your Kingdoms, and the Liberties of *Europe*, do entirely depend.

This Address was no less favourably received than graciously answered, as follows :

Queen's Answer. My Lords,
 Return you many Thanks for your Address, and the Assurances of your Support and Assistance, which are always very agreeable to me, and particularly upon this Occasion."

The same Day came forth in print, by order of the House of Lords, the Resolution and Proceeding of their Lordship upon an Affair of great Moment. There was a scandalous Story raised, wherein, not only the late King, but her present Majesty also was traduced; *viz.* That the late King *James* did, before his Death, write a Letter to the Queen wherein he charged her not to accept by any Means of the Crown, upon the Death of King *William*, but make way for the Succession of his pretended Son; and that the King having Notice hereof, and desiring to see the Letter, should refuse it; upon which, he should concert Measures for setting her aside; and that Papers were found in his Close to that Purpose: Wherefore, the Lords having made Enquiry into the Matter, and, as much as in them lay, to vindicate the Honour of their late Royal Sovereign, deceased, they came to this Resolution,

Lords Resolutions concerning false Reports of the deceased King.

That whereas their Lordships had been informed, that there had been a Report spread abroad, that, among the late King's Papers, some Paper or Papers had been found, tending to the Prejudice of her present Majesty, or her Succession to the Crown; and the Lord President, the Lord Steward, the Lord Chamberlain, the Earl of *Marlborough*, and the Earl of *Albemarle*, who were the Persons appointed by her Majesty to inspect the said Papers, having, at the Desire of the House, severally declared, that, amongst the late King's Papers, they did not see or find any Paper or Papers, in the least tending to the Prejudice of her Majesty or her Succession to the Crown; or to her Prejudice in any respect whatsoever, or which might give any Ground or Colour for such Report: It is thereupon resolved by the Lords spiritual and temporal in Parliament assembled, that the said Report is

is groundless, false, villainous and scandalous, to the Dis- Anno : Anno :
honour of the late King's Memory, and highly tending to 1702.
the Difservice of her present Majesty.

‘ It is ordered by the Lords spiritual and temporal in Parliament assembled, that the Matter of Fact aforesaid, and the Resolution of this House thereupon, be laid before her Majesty by his Grace the Duke of *Bolton*, the Earl Marshal, the Earl of *Radnor*, the Earl of *Stamford*, the Earl of *Scarborough*, and the Lord *Ferrers*: And that they do humbly desire her Majesty, from this House, that her Majesty will give Order to Mr. Attorney-General to prosecute, with the utmost Severity of Law, the Authors or Publishers of the above mentioned, or such like scandalous Reports.’

In pursuance of this Resolution, and Proceeding of their Lordships, the Duke of *Bolton* acquainted the House, that himself, and the other Lords, attended and presented their Lordships Resolution to her Majesty; in Answer thereunto, she was graciously pleased to say :

“ I Am very ready to do any thing of this kind : I will Queen's Answ^{rs}
“ give Directions to Mr. Attorney-General, effectually
“ to prosecute the Authors and Publishers of such false Re-
“ ports.”

Besides the above Censure, the Lords had under their Consideration a Complaint made of a Passage in the Preface of a printed Book, entitled, *The History of the last Parliament, begun at Westminster in the Reign of King William*, Anno 1700. The Passage was read to the House, and is as follows, *viz.* ‘ And perhaps, there was a third Thing in prospect of deeper Reach than all these; which was, that, should it have pleased God, for our Sins, to have snatched from us the King, on the sudden, by Chance of War, or other fatal Accident, during the Tumult of Arms Abroad, and the civil Disorders they had raised among us at Home, and a numerous, corrupt, licentious Party throughout the Nation, from which the House of Commons was sometimes not free; they might entertain Hopes from the Advantage of being at the Helm, and the Assistance of their Rabble, to have put in practice their own Schemes, and to have given us a new Model of Government of their own Projection, and so to have procured to themselves a lasting Impunity, and to have mounted their own Beast, the Rabble, and driven the sober Part of the Nation like Cattle before them.

‘ That this is no groundless Conjecture, will readily appear to any considering Persons, from the Treatment her Royal Highness the Princess of *Denmark*, the Heiress apparent to the Crown, met with all along from them and all their

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1702.

their Party. They were not contented to shew her a constant Neglect and Slight themselves, but their whole Party were instructed not only to treat her with Disrespect, but Spite; they were busy to traduce her with false and scandalous Aspersions; and so far they carried the Affront, as to make her, at one time, the common Subject of the Tittle-tattle of almost every Coffee-House and Drawing-Room; which they promoted with as much Zeal, Application and Venom, as if a Bill of Exclusion had then been on the Anvil, and these were the introductory Ceremonies.'

The Passage being thus read, it was thereupon ordered by the Lords spiritual and temporal in Parliament assembled, that *Francis Coggan, Robert Gibson, and Thomas Hodgson*, for whom the said Book was mentioned to be printed, should, and were thereby required to attend that House, on the *Saturday* following at eleven o'Clock: But their Lordships, in the mean time, being informed, that Dr. *Drake* owned himself to be the Author of the Book, and that he desired he might be appointed to attend at the same time: Thereupon it was ordered, that he should attend that House on *Saturday*, the same Hour; when after reading the Order made the 6th, at the Desire of Dr. *Drake*, for his Attendance that Day, the House took into their Consideration the above-mentioned Paragraph. After the reading whereof, Dr. *Drake* was called in, and the Order being read to him, the Lord-Keeper asked him what he had to say concerning the said Book; and the Book and the said Paragraph being shewed him, he owned he writ the Book, and that Paragraph in particular; and he thought he had just Reasons to write it, he having heard her Highness talked of disrespectfully in almost every Coffee-House. Then he withdrew: And after some Debate was called in again; and the Lord Keeper told him, the House was not satisfied with what he had said, but thought he trifled, and required him to acquaint the House with the Grounds of his writing that Paragraph. He answered, He found it mentioned in divers anonymous Pamphlets published at that Time, and hoped it was no Hurt to answer those Pamphlets, and desired Time to recollect what those Pamphlets were: And then withdrew.

After some time he was called again, and asked the following Questions, *viz.*

If he could charge any Person or Persons in the Kingdom, with the Matters asserted by him in that Paragraph?

To which he answered, That he did not know any such Person.

Then he was asked, Whether he had heard any other Person say, that they could charge any Person whatsoever with Matters contained in that Paragraph?

He

He said, He did not know of any such Persons.

Being farther asked, If he had any other Grounds besides the Pamphlets, and what these Pamphlets were?

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1701.

He said, He had no other Grounds besides the Pamphlets; and named the several Pamphlets following, as his Reason for writing the said Paragraph, *wiz.* The two *Legion Letters*; the *Black List*; the *Jura Populi Anglicani*; and *Toland's Reasons for inviting over the Princess of Hanover*. And being asked, If in any one of these Pamphlets there was any thing said about setting aside the present Queen? He answered, He did not remember there was.

Then, he being withdrawn, the said Paragraph was taken into Consideration, and it was proposed to pass a Censure thereupon. And after Debate, this Question was put, That a Censure should be then put upon the said Paragraph? It was resolved in the Affirmative.

Then this Question was put, That in the Preface of the Book, entitled, *The History of the last Parliament, begun at Westminster the 10th Day of February, in the 12th Year of the Reign of King William, Anno Dom. 1700*, there were several Expressions which were groundless, false, and scandalous, tending to create Jealousies in her Majesty of her People, and to cause great Misunderstandings, Fears, and Disputes amongst the Queen's Subjects, and to disturb the Peace and Quiet of the Kingdom.

It was resolved in the Affirmative, in these Words, ' It is Censure pass'd resolved and declared by the Lords spiritual and temporal in thereon. Parliament assembled, that in the Preface of a Book entitled, *The History of the last Parliament, begun at Westminster the 10th Day of February, in the twelfth Year of the Reign of King William, Anno Domini 1700* (written by Dr. Drake, as he owned at the Bar) there are several Expressions, which are groundless, false, and scandalous, tending to create Jealousies in her Majesty of her People, and to cause great Misunderstandings, Fears, and Disputes amongst the Queen's Subjects, and to disturb the Peace and Quiet of the Kingdom.' After which they ordered her Majesty's Attorney-General forthwith effectually to prosecute the said Doctor Drake, for having writ the said Paragraph.

On the 12th of May, the Order being read for the Master Proceedings in and Wardens of the Stationers-Company, and John Nutt, to respect to Tom attend to give an Account of what they have done, in order Double, to find out the Author and Printers of the Book entitled, *Tom Double, returned out of the Country: Or the true Picture of a modern Whig, set out in a second Dialogue between Mr. Whiglove and Mr. Double, at the Rummer-Tavern in Queen-Street*. They were called in, and Mr. Nutt said,

That

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That Mr. Barber, the Printer, gave him the Book to publish, and they withdrew. Then the House went into Consideration of the Paragraphs in the 89th and 90th Pages of the said Book, which were read as followeth, *viz.*

• *Whiglove*, I find we have miscarried in one great Design, the Train would not take, we were very hot upon it just before the Parliament met, all the Whig Coffee-Houses rung how necessary it was to break into the Acts of Settlement, and to exclude _____

• *Double*. Mum, *Whiglove*, talk no more upon that Subject, I beseech you; fresh Orders are issued out, and since we are not strong enough to make it go, and that on the contrary, it has alarmed and provoked all sorts of Men, we are now directed to say, that never any such thing was intended by our Party, tho', God knows, it was the whole Discourse of all our Clubs. Under the Rose, this was one of those Embrio's that proved abortive upon the 30th of December last; but tho' it be not seasonable to stir in it now, never fear our abandoning a wicked Design; we never quite lay aside any Mischief; however, since it has really opened the Eyes of a great many, and weakened our Interest among several of our own Side, whom, (with Grief of Mind I speak it) we cannot work up to be guilty of so much Injustice, let us take all Occasions of declaring, that we will not violate these Acts upon any Account whatsoever; which we may the more safely do, because you know it is our Principle, not to think that we are bound by any Protestations we make, either in private or in public; and it is one of the great Advantages we have over the rest of our Fellow-Subjects, and we can fetter the Consciences of others, while our own are at perfect Liberty.'

Then it was proposed to pass the same Censure on these Passages, as was passed on Part of the Preface of Dr. Drake's Book.

After Debate the Question was put, Whether the House should be then adjourned? It was resolved in the Negative. Then this Question was proposed, That in the Paragraphs which have been read, contained in the 89th and 90th Pages of the Book entitled, *Tom Double returned out of the Country, &c.* there were several Expressions, which were groundless, false, and scandalous, tending to create Jealousies in her Majesty of her People, and to cause great Misunderstandings, Fears, and Disputes amongst the Queen's Subjects, and to disturb the Peace and Quiet of the Kingdom.

Then the Question was put, Whether the Words, *groundless, false, and scandalous*, should be left out of the Question?

It

It was resolved in the Negative: After which the main Ques. *Anto x Annas*
 tions was put, That in the Paragraphs which had been read, as
 aforesaid, there were several Expressions which were ground-
 less, false, and scandalous, tending to create Jealousies in her
 Majesty of her People, and to cause great Misunderstandings,
 Fears, and Disputes amongst the Queen's Subjects, and to dis-
 turb the Peace and Quiet of the Kingdom. It was resolved
 in the Affirmative, in these Words: ' It is resolved and de-
 cided by the Lords spiritual and temporal in Parliament as-
 sembled, that in the Paragraphs which have been read, con-
 tained in the 89th and 90th Pages of the Book, entitled,
Tom Double returned out of the Country: Or the true Picture
of a modern Whig, set forth in a second Dialogue between Mr.
Whiglove and Mr. Double, at the Rummer Tavern in Queen's-street,
*there are several Expressions which are ground-
 less, false, and scandalous, tending to cause great Misunder-
 standings, Fears and Disputes amongst the Queen's Subjects,*
and to disturb the Peace and Quiet of the Kingdom.'

This being over, and Complaint being made to the House, *Animadver-
 sions upon the two Sermons upon the 30th of January*
*of a Book entitled, Animadversions upon the two Sermons upon the
 30th of January Sermons. One preached to the honourable
 House of Commons: The other to the Lower House of Convoca-
 tion. In a Letter.* After reading and considering the sev-
 eral Paragraphs and Places therein, and Debate thereupon;
 it was resolved and declared by their Lordships, that the Book
 or Pamphlet, aforesaid, was a malicious, villainous Libel,
 containing very many Reflections on King *Charles I.* of ever-
 lefted Memory, and tending to the Subversion of the Monar-
 chy: And thereupon it was ordered by the Lords spiritual
 and temporal in Parliament assembled, that the Pamphlet
 should be burnt by the Hands of the common Hangman at *Order'd to be
 Westminster, on Friday, the 22d Day of this instant, between burn'd by the
 Hours of one and two of the Clock in the Afternoon of Hangman.*
 the said Day:

Then the House took into their Consideration a Book, en- *Dr Bincke's*
 titled, *A Sermon preached on January the 30th, 1701, in King Sermon,*
Henry VII. Chapel, before the reverend Clergy of the Lower
House of Convocation. By W. Binckes, D. D. a Proctor for
the Diocese of Lichfield and Coventry. And some Parts or
 Paragraphs out of the ninth, tenth, and fifteenth Pages of the
 said Book being read, as followeth, *viz.*

' And 1st, As to the near Resemblance between the Par-
 ties concerned, as well the Actors as the Sufferers, comparing
 those in the Text with those of the Day.

' And here one would imagine, the latter were resolved
 to take St. Paul's Expression in the most literal Sense the
 Words will bear, *and crucify to themselves the Lord afresh,*
 1702.

ANNO : ANN. and in the nearest Likeness that could be, put him to as ope
 1702. Shame. If, with respect to the Dignity of the Person, t
 have been born *King of the Jews*, was what ought to hav
 skreened our Saviour from Violence, here is also one, no
 only born to a Crown, but actually possessed of it. He wa
 not only called King by some, and at the same time deride
 by others for being so called, but he was acknowledged by al
 to be a King ; he was not just dressed up for an Hour or tw
 in *Purple Robes*, and saluted with a *Hail King*, but the usua
 Ornements of Majesty were his customary Apparel ; his Sub
 jects owned him to be their King, and yet they brought him
 before a Tribunal, they judged him, they condemned him ; and
 that they might not be wanting in any thing to set him a
 naught, they spit upon him, and treated him with the ut
 most Contempt. Our Saviour's declaring, *that his Kingdom
 was not of this World*, might look like a sort of Renuncia
 tion of his temporal Sovereignty, for the present desiring only
 to reign in the Hearts of Men ; but here was nothing of
 this in the Case before us ; here was an indisputable Right
 of Sovereignty, both by the Laws of God and Man ; he was
 the reigning Prince, and the Lord's Anointed ; and yet, in
 despight of all Law, both human and divine, he was by di
 rect Force of Arms, and the most daring Methods, of a fla
 grant Rebellion and Violence, deprived at once of his impe
 rial Crown and Life.

‘ The Fact of this Day was such a vying with the first
 Arch-Rebel, the apostate Angel *Lucifer* : It was such a going
 beyond the old Serpent in his own way of Insolence and
 Pride, that it is no Wonder if he began to raise his Head,
 and set up for Dominion in this World, when thus warmed
 and enlivened by a fiery Zeal in some, and Rage in others,
 to the degree of Drunkenness, thirsting after and satiating
 themselves in Royal Blood ; and in which Respect only,
 heated to the degree of Phrenzy and Madness, the Plea in
 my Text may seem to have some hold of them. *Father,
 forgive them, for they know not what to do.*’

After Debate thereupon, it being proposed to censure
 these Paragraphs, the House came to the following Reso
 lution :

Censured.

‘ It was resolved and declared by the Lords spiritual and
 temporal in Parliament assembled, That in the Book enti
 tled, *A Sermon preached on January the 30th, 1701, in King
 Henry VII. Chapel, before the reverend Clergy of the Lower
 House of Convocation, by W. Binckes, D. D. a Proctor for the
 Diocese of Litchfield and Coventry* ; there are several Express
 sions that give just Scandal and Offence to all Christian People.’

Then

Then it being proposed to burn the Sermon; it was resolved in the Negative: But at the same time their Lordships ordered, That the Resolution above-recited, should be communicated to the Lord Bishop of *Lichfield* and *Coventry*, his Ordinary, whom they left to censure him as he thought fit, according to the Rules of those Courts.

In the next place, Complaint being made to the House, of two Passages in the Pamphlet, entitled, 1. *Reasons for advising his Majesty to invite into England their Highnesses the Electress Dowager, and the Electoral Prince of Hanover.* And likewise 2. *Reasons for attainting and abjuring the pretended Prince of Wales, and all others pretending any Claim, Right or Title from the late King James and Queen Mary, with Arguments for making a vigorous War against France.* The Passages were read to the House, and are as followeth, (viz.)

' It appears from History, that all free People have set aside the Children of Tyrants, for Reasons of external and universal Force, as inheriting the Principles and Designs of their Parents, bearing an Affection to their Friends, and owing a Revenge to their Enemies; as more likely to grasp at a greater Power than even their Parents, the better to secure themselves from their Disgrace, and being under extraordinary Obligations to those foreign Potentates, who protected or restored them.

' In fine, whether Abjuration be penal or voluntary, (for I cannot doubt of one or the other) I hope Care will be taken that it be tendered, as I said before, to all manner of Persons, not excepting the King's Majesty, or her Royal Highness the Princess of Denmark. For all the Securities we give to them, they owe this Security to us. Not that I doubt either of them, from which I am the farthest of any Man in the World; but they both of them very well know, what Stories and Surmises our Enemies have been actually spreading to amuse and intimidate the People: They have whispered horrible Things of blind and clandestine Bargains; but *Cæsar's* Wife ought to be unsuspected, as well as innocent.'

After which, it was resolved and declared by the Lords spiritual and temporal in Parliament assembled, that there were in that Pamphlet Assertions and Insinuations, scandalous and dangerous, tending to alienate the Affections of the Subjects of this Kingdom from her Majesty, and to disturb the Peace and Quiet of the Kingdom.

The 24th, The Queen put an End to the Session with a Speech, which see in *CHANDLER's Hist. Anno 1 Anne, 1702.* Page 202.

Anno 1 Anne,
1702.

Wavy line

about inviting
over the Elec-
tor of Hanover.

The Campaign this Summer was open'd successfully by the taking of *Keyserwaert* by the Earl of *Atblone*; and, soon after, the Earl of *Marlborough*, having the chief Command of both *English* and *Dutch*, obliged the *French* to abandon *Spanish Guelderland*: After which he laid Siege to *Venlo*, and, Fort *St. Michael* having been taken, *Sword-in-hand*, by Lord *Cutts*, made himself Master of the Place. *Ruremond* and *Stevenkwaert* shared the same Fate; and, with the Submission of *Leige* and its Citadel, ended the Campaign.

The unsuccessful Attack of *Cadiz*, under the Duke of *Ormond* and Sir *George Rook*, and the taking and destroying the *Spanish Galleons*, and *French Fleet* at *Vigo*, were the Sum of our Exploits at Sea.

July the 2d, the late Parliament had been dissolved: And October the 20th,

The First Parliament of Queen ANNE

Lords Address.

ASSEMBLED at *Westminster*, and having chose their Speaker, her Majesty, the next Day, made a Speech, as usual, to both Houses, to be found in *CHANDLER's History, Anno i. Annae, 1702, Page 203*; in Answer to which, the 22d, the Lords returned the following Address:

Address of
Thanks.

WE, your Majesty's most dutiful and loyal Subjects, the Lords spiritual and temporal in Parliament assembled, do, with all dutiful Acknowledgments, return your Majesty our most humble Thanks for your gracious Speech to both Houses of Parliament; and take Leave on this Occasion to congratulate the prosperous and glorious Success with which it hath pleased God to bless your Majesty's Arms, in conjunction with your Allies, under the Command of the Earl of *Marlborough*; as also for the other Successes of your Majesty's Allies in *Germany* and *Italy*; and for the prosperous Condition the Trade of the Nation is now in; which we acknowledge is chiefly owing to your Majesty's great Wisdom and Conduct. We humbly take Leave to assure your Majesty, that we shall always be ready to assist you to our utmost in the Prosecution of this just and necessary War.

We likewise return your Majesty our most humble Thanks for the Resolution you are pleased to express, to maintain and defend the Church as by Law established; and

* He was afterwards made one of the Lords Justices of Ireland, where he is said to have died of a broken Heart, Jan. 26, 1705-6: The Cause, his being sent thither out of the Way of Action.

and to protect us in the full Enjoyment of our Rights and Liberties: And we farther presume to assure your Majesty, that we shall be ready, on all Occasions, to support and defend your Royal Person and Government, with all possible Zeal and Duty.'

To which her Majesty returned an Answer, as follows:

My Lords,

" YOUR Address is very acceptable to me: I thank Queen's Answer,
" you kindly for your Congratulations; and I hope,
" you will have frequent Occasions of renewing them."

Dr. *Lloyd*, the Bishop of *Worcester*, having incur'd the Displeasure of the Commons (see *CHANDLER's History, Anne 1 Anne, 1702, Page 204.*) who had address'd the Queen to remove his Lordship from being her Almoner, the Lords presented a Counter-Address on that Occasion, as follows:

" WE, your Majesty's most dutiful and loyal Subjects, the Lords Spiritual and Temporal in Parliament assembled, humbly take leave to represent to your Majesty, that it is the undoubted Right of every Lord of Parliament, and of every other Subject of *England*, to have an Opportunity of making his Defence, before he suffer any sort of Punishment: And therefore humbly desire your Majesty, that you will be pleased not to remove the Lord Bishop of *Worcester* from the Place of Lord Almoner, nor to shew any Mark of your Displeasure towards him, till he be found guilty of some Crime by due Course of Law.'

To which her Majesty was pleased to return the following Answer:

" I Agree, that every Peer and Lord of Parliament, and, indeed, every other Person, ought to have an Opportunity of being heard to any Matters objected against him, before he be punished.

" I have not received any Complaint of the Bishop of *Worcester*; but I look upon it as my undoubted Right, to continue or displace any Servant attending upon my own Person, when I shall think it proper."

Their Lordships having received this Answer, resolved, ^{Their Vote} ~~unire contradicente~~, that no Lord of their House ought to suffer any sort of Punishment, by any Proceedings of the House of Commons, otherwise than according to the known and antient Rules and Methods of Parliament.

January the 19th, Upon Report from the Committee of the whole House on the Bill to enable her Majesty to settle a Revenue upon the Prince of *Denmark*, in case he survived her, the Bill.

Clause, touching the Prince of Denmark's Capacity, not to be left out of her, the Bill.

anno 1. Anna. her, that they had gone thro' the Bill, and left out one Clause
 3702. which enacted, that in case of the Prince's surviving, he
 might be capable to be of the Privy-Council, a Member of
 this House, to enjoy any Office, the Grants herein men-
 tioned, or any other, notwithstanding the Act of Succession in
 the 12th of the late King.

And the Question being put, Whether to agree with the
 Committee in leaving out this Clause?

It was resolved in the Negative?

Dissentient

Protest thereon.

1st, We do dissent from this Clause, because, we conceive,
 this is a Bill of Aid and Supply; and that this Clause is
 altogether foreign to, and different from the Matter of the
 said Bill; and that the passing of such a Clause is therefore
 unparliamentary, and tends to the Destruction of the Constitu-
 tion of this Government.

2dly, Because, we conceive, that a Parliamentary Expe-
 dient might have been found, whereby his Royal Highness
 might, by an unanimous Consent, have all the Advantages
 designed him by this Bill, without the Lords being obliged
 to depart from what we conceive to be their undoubted
 Right.

3dly, Because, we conceive, that this Clause was not neces-
 sary to enable his Royal Highness to enjoy the Benefit of
 the said Grants.

4thly, Because, that this Clause, which pretends to capaci-
 tate his Royal Highness to enjoy his Peerage, notwithstanding
 the Act for the further Limitation of the Crown, and
 better securing the Rights and Liberties of the Subject, and
 which makes no Provision for other Peers under the same
 Circumstances, we conceive, may tend much to their Preju-
 dice.

*Torrington, Say and Seal, Somers, Portland, Manchester,
 Kingston, Jo. Litch, and Corwen. Offulstone.*

Protestation a-
 gainst the Clauses
 relating to the
 Grants.

We dissent from the Clauses relating to the Grants.

1st, Because the said Grants are not laid before the House
 (tho' desired) by which we are ignorant upon what Conside-
 ration the same were granted.

2dly, Because, we conceive, that the saving Clauses are so
 far from having any relation to his Royal Highness, that if
 they signify any thing (without any respect to him) they
 prefer their Payment before his.

*Somerset, Devonshire, Tbo. Cantuar. Huntingdon, Say and
 Seal, W. Worcester, Rich. Petriburg, Gi. Sarum, Rad-
 nor, Jo. Chichester, Jo. Bangor, Sunderland, Oxford,
 Bolton,*

*Milton, Mobun, Bergevenny, Berkeley of Stratton, Jo. Anne & Anne.
Litch. and Coven. Rivers, Lovelace, Townsendl, Herbert,
Carlile, E. M. Tho. Warton, Essex, Poulet, Rocking-
ham, Stamford.*

January the 22d, After hearing Council upon the Petition *Squire and*
Robert Squire, Esq; and John Thompson, in relation to an *Thompson's*
Appeal of the Right Honourable Thomas Lord Wharton, *Petition, re-*
and the Answer of his Lordship to the said Petition, and De-
bate thereupon, *lating to Lord Wharton's*
Appeal, dis-
miss'd.

The Question was put, Whether the Petition of *Robert Squire and John Thompson* shall be dismissed, and they ordered to answer the said Appeal?

It was resolved in the Affirmative.

Dissentient

*First, Because we conceive, that by this, we assume a Ju- Protect thereto.
diction in an original Cause, for these Reasons:*

1st, Because there has been no Suit between the Parties in the Exchequer, and consequently this Petition cannot be called an Appeal from that Court.

2dly, Altho' there was a Suit in the Court of Chancery, yet one of the Persons required to answer was not a Party in that Suit; and therefore, as to him, at least, it must be an original Cause.

3dly, Tho' all had been Parties in the Chancery, yet it never was heard that an Appeal lay from one Court that had no Suit depending in it, because there was a Suit depending in another Court.

Secondly, Because no Court can take any Cognizance of a Cause, in which that Court cannot make an Order; but in this Case, the House of Lords cannot make an Order, because very many are concerned in this Record, who are not before this House; therefore this House cannot take any Cognizance of it.

*Leeds, Townsendl, Nottingham, Will. Carlil', Weymouth,
N. Duresme, Tho. Roffe', Poulet, Rochester, Dartmouth,
Jmat. Exon'.*

February the 22d, *Hodie 2^a vice letta est Billa*, entitled, *Bill for qualify-*
An Act for providing, that no Persons shall be chose Mem- ing Members of
bers of the House of Commons but such as have sufficient the House of
Real Estates. Commons.

Then a Debate arising, Whether this Bill shall be committed,

The Question was put, Whether this Bill shall be committed?

It was resolved in the Negative. Contents 32, Proxies 7;
in all 39: Not Contents 36, Proxies 10; in all 46.

Dissentient

Anno i Anni; *Dissentient'*

1702.

W *Protest thereon.*

Because the Design of that Bill was for hindering of Foreigners, and Men of little or no Estate, from being capable of taxing and disposing the Rights and Estates of all *England*, and might have received any reasonable Alterations at a Committee, which should have been judged convenient.

*De Longueville, Cholmondeley, Weymouth, Starwell, Plymouth, Sandwich, Carnarvon, Scarsdale, Warrington, Lindsey, G C. Dartmouth, Lempster, * Barnard, Nottingham, Townshend, Normanby, C. P. C. Denbigh, Kent, Poulet, Abingdon.*

The grand Controversy between the two Houses, relating to the Occasional[†] Conformity-Bill, was the next Affair of Moment that occur'd; which is to be found entire in *CHANDLER's Hift. Anno i Anni, 1702, P. 211, &c.* as likewise the several Conferences on the Report of the Commissioners of Public Accounts, Page 247, &c. the Substance of which, as far as relates to the Conduct of the Lords, was laid before her Majesty, together with the following Address:

May it please your Majesty,

Address, occasioned by the Report of the Commissioners of Accounts.

WE, your Majesty's most dutiful and loyal Subjects, the Lords spiritual and temporal in Parliament assembled, having received from the Commissioners for taking, examining and stating the public Accounts of the Kingdom, in pursuance of an Act of Parliament, a Book

of

* Christopher Vane, of Raby-Castle, Esq; made Lord Barnard of Barnard-Castle, July the 8th, 1699.

† On which Occasion we find the following Protest.

Die Mercurii 24th Februarii, 1702.

A long Report was made from the Committee appointed to draw up what was offered at the free Conference, upon the Bill for preventing Occasional Conformity.

And it being proposed to print this Report, and the said Bill, with the Amendments made by the Lords, and their Proceedings thereupon,

The Question was put, Whether the Bill entitled, An Act for preventing Occasional Conformity, and the Amendments made by the Lords to the said Bill, and their Reasons for those Amendments; and the Commons Reasons, and the Report of the free Conference thereupon, shall be printed and published?

It was resolved in the Affirmative.

Dissentient'

Because the printing of Bills, and the Proceedings on Bills, was never done, and therefore is unparliamentary.

'Tis an appealing to the People, and giving them a Pretence of Right to examine and judge of the Parliament, which otherwise would be unlawful; and this Practice may be of pernicious Consequence to the Peace of the Kingdom, and highly derogatory to the Honour and Dignity of the House of Lords.

Lipsey, G. C. Nottingham, Sandwich, Dartmouth, Denbigh, Weymouth.

of Accounts; together with several Observations made by *Anno 2 Annæ;*
 them, thought it incumbent on us, out of our Duty to your
 Majest, and our Zeal for the Public, to have them care-
 fully looked into and examined; and having made some
 Remarks, and come to some Resolutions thereupon, which
 we hope may be of Service to your Majest, and of public
 Advantage to the Nation, we take the Liberty to lay these
 Proceedings before your Majest, humbly desiring that
 your Majest will be graciously pleased to take the same
 into your royal Consideration, and give such Directions
 therein, as your Majest, in your great Wisdom, shall think
 fit.'

To which her Majest made this Answer.

"**T**HAT her Majest would take the whole Matter *Queen's Answer.*
 into her Consideration."

But nevertheless, put an End to the Session, *February the 27th*, with a Speech; which see in *CHANDLER's Hist. Anno 2 June 1702, Page 277.*

In the Interval between the Sessions, the Duke of *Marlborough* passed over into *Flanders*, and opened the Campaign with the Siege of *Bonne*; which capitulated in ten Days. Soon after which *Boufflers* having been detached from *Marshal Villeroys* Army, to surprize the *Dutch* Forces under *Opdam*, at *Echeren*, his Grace was thought to have committed an Overfight, in not having attacked *Villeroys*, while thus weakened on one Side, or supported *Opdam*, who was over-powered on the other. He afterwards took *Huy*, *Limbourg*, and *Gelder*, which were the whole of his Exploits during this Campaign.

In this Interval, likewise, the Foundation of the subsequent War in *Spain* being laid, a grand Design of King *William's*, to make certain important Acquisitions in the Bay of *Mexico*, was laid aside, for fear of giving Offence to the *Spanish* Nation; and the King of *Portugal* was courted into the grand Alliance, on the most extravagant Terms. And as to our Conduct at Sea, Sir *George Rooke* was indeed sent to Sea with a Squadron, but with such Orders as amounted to no more than to go out and come Home.

A correct List of the Lords Spiritual and Temporal of the Parliament, which met at Westminster (by Prorogation) the 9th of November, 1703.

THE Right Honourable Sir *Nathan Wright*, Knight, Lord-Keeper of the Great-Seal of *England*, Speaker. Prince *George of Denmark*, Duke of *Cumberland*, Lord High-Admiral of *England*, &c.

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Sidney Godolphin, Lord Godolphin, Lord High-Treasurer.
Thomas Herbert, Earl of Pembroke and Montgomery, Lord President of the Council.
John Sheffield, Duke of Buckingham and Normandy, Lord Privy-Seal.
William Cavendish, Duke of Devonshire, Lord Steward of the Household.
+ Thomas Howard, Duke of Norfolk, Hereditary Earl-Marshal of England.
Charles Seymour, Duke of Somerset.
Charles Lucas, Duke of Richmond.
Charles Fitz-Roy, Duke of Southampton.
** Charles Fitz-Roy, Duke of Grafton.*
James Butler, Duke of Ormond.
** Henry Somerset, Duke of Beaufort.*
George Fitz-Roy, Duke of Northumberland.
Charles Beauclair, Duke of St Albans.
James Fitz-James, Duke of Berwick. Outlawed.
Charles Paulet, Duke of Bolton.
Meinhard Schomberg, Duke of Schomberg.
Charles Talbot, Duke of Shrewsbury.
Thomas Osborne, Duke of Leeds.
Wriothesley Russel, Duke of Bedford.
John Hollis, Duke of Newcastle.
John Churchill, Duke of Marlborough.
John Manners, Duke of Rutland.

M A R Q U I S.

William Herbert, Marquis of Powys. Outlawed.

E A R L S.

Robert Bertie, Earl of Lindsey, Lord Great-Chamberlain of England.
Charles Howard, Earl of Carlisle, Earl-Marshal of England, during the Minority of Thomas, Duke of Norfolk, Hereditary Earl-Marshal of England.
Edward Villiers, Earl of Jersey, Lord Chamberlain of the Household.
Henry Grey, Earl of Kent.
James Stanley, Earl of Derby.
George Hastings, Earl of Huntington.
** Henry Clinton, Earl of Lincoln.*
Henry Howard, Earl of Suffolk.
Charles Sackville, Earl of Dorset and Middlesex.
** James Cecil, Earl of Exeter.*
Scroop Egerton, Earl of Bridgewater.
Philip Sidney, Earl of Leicester.
George Compton, Earl of Northampton.

* Edward

*Edward Henry Rich, Earl of Warwick and Holland.
 Basil Fielding, Earl of Denbigh.
 Powlet St. John, Earl of Bolingbroke.
 *Thomas Fane, Earl of Westmoreland.
 Charles Montagu, Earl of Manchester.
 Thomas Howard, Earl of Berkshire.
 Richard Savage, Earl Rivers.
 Charles Mordaunt, Earl of Peterborough and Montacute.
 Thomas Grey, Earl of Stamford.
 Charles Finch, Earl of Winchelsea.
 Evelyn Pierrepont, Earl of Kingston.
 Charles Dormer, Earl of Carnarvon.
 Philip Stanhope, Earl of Chesterfield.
 Thomas Tufton, Earl of Thanet.
 Charles Spencer, Earl of Sunderland.
 Robert Leke, Earl of Scarsdale.
 Edward Montagu, Earl of Sandwich.
 Henry Hyde, Earl of Clarendon.
 Algernon Capell, Earl of Essex.
 †George Brudenell, Earl of Cardigan.
 John Anamesley, Earl of Anglesey.
 *William-Henry Granville, Earl of Bath.
 Thomas Bruce, Earl of Ailesbury. Extra Regnum.
 Charles Boyle, Earl of Burlington.
 Anthony-Ashley Cooper, Earl of Shaftesbury.
 Edward-Henry Lee, Earl of Litchfield.
 Thomas Lennard, Earl of Sussex.
 Lewis de Duras, Earl of Fauconham.
 Charles Bedwile Roberts, Earl of Radnor.
 William Paston, Earl of Yarmouth.
 Charles Berkeley, Earl of Berkeley.
 Daniel Finch, Earl of Nottingham.
 Laurence Hyde, Earl of Rochester.
 Montague-Venables Bertie, Earl of Abingdon.
 *Baptist Noel, Earl of Gainsborough.
 Robert D'arcy, Earl of Holderness.
 *Other Windsor, Earl of Plymouth.
 †Edward Radclyffe, Earl of Derwentwater.
 †Henry-Stafford Howard, Earl of Stafford.
 William Beninck, Earl of Portland.
 Ralph Montagu, Earl of Montagu.
 Arthur Herbert, Earl of Torrington.
 Richard Lumley, Earl of Scarborough.
 George Booth, Earl of Warrington.
 Francis Newport, Earl of Bradford.
 Henry Sidney, Earl of Romney.
 William Zulestein, Earl of Rochester.

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Arnold-Jouſt van Keppell, Earl of Albemarle,
Thomas Coventry, Earl of Coventry.
Edward Russel, Earl of Orford.
Henry d' Auverquerque, Earl of Grantham.

V I S C O U N T S.

Price Devereux, Viscount Hereford.
† Francis Brown, Viscount Montacute.
Natbantel Fiennes, Viscount Say and Seal.
† Thomas Belasye, Viscount Falconberg.
Charles Townshend, Viscount Townshend,
Thomas Thynne, Viscount Weymouth.
Christopher Hatton, Viscount Hatton.
Henry Yelverton, Viscount Longueville.
* Richard Lowther, Viscount Lonsdale,

B A R O N S.

George Nevill, Lord Bergavenny.
* James Touchet, Lord Audley.
John West, Lord De La Warr,
Robert Shirley, Lord Ferrers.
Charles Mildmay, Lord Fitz-walter.
* Edward Ward, Lord Dudley and Ward.
† Edward Stourton, Lord Stourton.
Richard Verney, Lord Willoughby of Broke.
Ralph Eure, Lord Eure.
Thomas Wharton, Lord Wharton.
Hugh Willoughby, Lord Willoughby of Parham.
William Paget, Lord Paget.
Thomas Howard, Lord Howard of Effingham.
William North, Lord North and Grey of Rolleston.
James Brydges, Lord Chandos.
† William Cary, Lord Hunsdon. Extra Regnum.
† Thomas Petre, Lord Petre.
† Charles Gerard, Lord Gerard of Gerard's Bromley.
† Thomas Arundell, Lord Arundel of Wardour.
† Henry Roper, Lord Tenham.
Foult Greville, Lord Brooke.
Ralph Gray, Lord Gray.
John Lovelace, Lord Lovelace.
John Poulet, Lord Poulet.
Banaster Maynard, Lord Maynard.
Charles Howard, Lord Howard of Escrick.
Charles Mowbray, Lord Mowbray.
Thomas Wentworth, Lord Raby.
Thomas Leigh, Lord Leigh.
† Henry Jermyn, Lord Jermyn and Lord Dover,
William Byron, Lord Byron.

John

John Vaughan, Lord Vaughan.
 † Charles Smith, Lord Carrington.
 William Widdrington, Lord Widdrington.
 John Culpeper, Lord Culpeper.
 Robert Lucas, Lord Lucas.
 Lewis Watson, Lord Rockingham.
 Robert Sutton, Lord Lexington.
 † Marmaduke Langdale, Lord Langdale.
 William Berkeley, Lord Berkeley of Stratton.
 Charles Cornwallis, Lord Cornwallis.
 Dr. Nathaniel Crew, Lord Crew and Lord Bishop of
 Durham.

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John Arundel, Lord Arundel of Trerise.
 William Craven, Lord Craven.
 † Hugh Clifford, Lord Clifford.
 Peregrine Osborn, Lord Osborn.
 John Carteret, Lord Carteret.
 Charles Bennet, Lord Offidone.
 William Legge, Lord Dartmouth.
 William Starwell, Lord Starwell.
 Francis North, Lord Guilford.
 † James Waldegrave, Lord Waldegrave.
 Edward Griffin, Lord Griffin. Outlaw'd.
 Hugh Cholmondeley, Lord Cholmondeley.
 John Aſſburnham, Lord Aſſburnham.
 William Farmer, Lord Lempster.
 Charles Butler, Lord (Butler of) Weston.
 Henry Herbert, Lord Herbert.
 John Thompson, Lord Haverham.
 John Somers, Lord Somers.
 Christopher Vane, Lord Barnard.
 Charles Montagu, Lord Hallifax.
 † John Granville, Lord Granville.
 † Heneage Finch, Lord Guernsey.
 † John-Leveson Gower, Lord Gower.
 † Francis Seymour Conway, Lord Conway.
 † John Hervey, Lord Hervey.

Note. Those mark'd † are Roman Catholic, and those
 with * prefix'd, are all under Age. The last Five † created
 by Queen Anne, and Lord Hervey at the Instance of the
 then reigning Favourite, Sarah Duchess of Marlborough.

ARCHEBISHOPS and BISHOPS.

Dr. Thomas Tennison, Lord Archbishop of Canterbury.
 Dr. John Sharp, Lord Archbishop of York.
 Dr. Henry Compton, Lord Bishop of London.
 Dr. Nathaniel Crew, Lord Bishop of Durham, and Lord
 Crew.

Dr.

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Dr. Peter Mow, Lord Bishop of *Winchester*.
 Dr. William Beaw, Lord Bishop of *Llandaff*.
 Dr. William Lloyd, Lord Bishop of *Worcester*.
 Dr. Thomas Sprat, Lord Bishop of *Rochester*.
 Sir Jonathan Trelawny, Bart. D. D. Lord Bishop of *Exeter*.
 Dr. Gilbert Burnet, Lord Bishop of *Salisbury*.
 Dr. Humphrey Humphreys, Lord Bishop of *Hereford*.
 Dr. Nicholas Stratford, Lord Bishop of *Chester*.
 Dr. Symon Patrick, Lord Bishop of *Ely*.
 Dr. John Hough, Lord Bishop of *Coventry and Litchfield*.
 Dr. John Moore, Lord Bishop of *Norwich*.
 Dr. Richard Cumberland, Lord Bishop of *Peterborough*.
 Dr. Edward Fowler, Lord Bishop of *Gloucester*.
 Dr. John Hall, Lord Bishop of *Bristol*.
 Dr. James Gardner, Lord Bishop of *Lincoln*.
 Dr. John Williams, Lord Bishop of *Chichester*.
 Dr. William Talbot, Lord Bishop of *Oxford*.
 Dr. John Evans, Lord Bishop of *Bangor*.
 Dr. William Nicolson, Lord Bishop of *Carlisle*.
 Dr. George Hooper, Lord Bishop of *Bath and Wells*.
 Dr. William Beveridge, Lord Bishop of *St. Asaph*.



The SECOND SESSION of the First Parliament of Queen ANNE

WAS open'd by her Majesty, November the 9th, with a Speech, to be found in CHANDLER's *Hist. Anno 2. Annæ, 1703, Page 268*; and to which, on the 12th, the Lords, in their Address, reply'd as follows :

Lords Address.

‘ **W**E your Majesty's most dutiful and loyal Subjects, the Lords spiritual and temporal in Parliament assembled, do offer up our hearty Acknowledgments to Almighty God for the Preservation of your Royal Person, so essential to the Happiness of your People, and the Safety of Europe.
 ‘ We see, with the greatest Satisfaction, the Zeal with which your Majesty espouses the public Interest, which carries you even beyond the Obligations of your Treaties, in Defence of the House of *Austria*, against all the Usurpations of the House of *Bourbon*, and the glorious Restoration of that Family to the Monarchy of *Spain*; which we have great Reason to expect, from the late Alliance with the King of *Portugal*, will be chiefly owing to your Majesty's Arms and Assistance.

‘ Your

‘Your Majesty may depend upon Security at Home, in Anno 2 Anno,
 ‘the Love of your People. Our Persons and Fortunes shall
 ‘ever be ready to defend you upon all Occasions, and your
 ‘Majesty may therefore, with the greater Safety and Glory,
 ‘lead your Fleets and Armies Abroad in the Defence of
 ‘your Allies.

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‘The happy Declaration of the Duke of Savoy for the
 common Interest gives your Majesty a favourable Opportu-
 nity to shew your Compassion and Concern for those Pro-
 testants in the South of France, who lie under the heaviest
 Persecution and Oppression.

‘We lament for ourselves, and others, the unavoidable
 Expence of War, but have Reason to thank God, and
 your Majesty, that we are free from all the other Calamities
 of it, having almost nothing else to wish for, (being se-
 cured of a Protestant Succession) but your long and happy
 Reign over us: And we shall most willingly pay our Pro-
 portion of Taxes, encouraged by your royal Generosity
 for the Ease of your People, and by the frugal Manage-
 ment of what is given; being sensible there is no better
 way to save the Wealth of the Nation, than by carrying on
 the War at this Time with the utmost Vigour. Your Ma-
 jesty may expect from us a most ready Compliance with all
 your Desires, so justly merited by your Care of the gene-
 ral Welfare and Happiness of your People, extended even
 to the poorest and meanest of your Subjects.

‘This appears yet more eminently, in that earnest and
 pressing Recommendation to your Parliament, of Union
 and Peace among themselves: And we in the most solemp
 manner assure your Majesty, that we will not only avoid,
 but oppose whatever may tend to create any Disquiet or
 Dissention among your Subjects.

‘We shall never be wanting in any Part of our Duty,
 towards the supporting your Majesty’s Honour, and your
 Allies, not doubting but Almighty God will prosper your
 Majesty’s Arms, so gloriously employed to protect all those
 whom the Ambition of the French King would oppress.’

To which her Majesty returned :

My Lords,

‘I AM extremely sensible of the particular Concern you Queen’s An-
 ‘s express for me in this Address, and of your great Zeal fwer.
 ‘for the common Cause of Europe: I rely very much upon
 ‘the Assurance you give me of your Duty and Affection,
 ‘and shall use my best Endeavours to establish the Safety
 ‘and Happiness of the Kingdom.’

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In the Beginning of December the Occasional Conformity-Bill was again sent up to the Lords, where it occasioned the following Debate :

Occasional Conformity-Bill
brought in.
Debate thereon.
Bishop of Salisbury.

My Lords,

‘ I am very glad to find, that how much Heat soever this Matter has raised abroad, yet none of that has appeared in all this Debate : If a Heat of Zeal has appeared in some, yet nothing has been mixed with it unbecoming the Dignity of this House, and the Solemnity of a great Council : It is a Disadvantage, especially to one of this Bench, to speak against any thing, that, in the Sound, and first Appearance, seems to be intended for the Service of the Church ; and, I am sure, if I were not fully convinced that it is not so, but that, how well soever it may be intended by some, the Effects of it will be quite contrary, I could not have a Heart, or a Face to speak against it, but shoudl promote it with all possible Zeal.

‘ I confess, I am already bound up, as to this Particular, and determined by a Promise solemnly made to the Queen. Her Majesty recommended Union to us, with a particular Vehemence of Style, when she said, she wanted Words to express how earnestly she desired to see Union and a good Agreement among her Subjects. I am sure, we must all want Words to express a due Sense of that Royal Tenderness and Care of us. In our Address to her Majesty we promised, not only to avoid, but to oppose every thing that might tend to create Disunion and Disorder : And I do freely own, that I had then this very Thing in my Thoughts, as I believe a great many others had, and therefore I look on myself as under an Obligation now, to perform what I then promised.

‘ I know, some of our Order, as well as myself, in particular, have been very indecently, and I hope, very unjustly too, treated in many printed Libels upon this very Account ; as if we were the Enemies to the Church, because we cannot think this Bill for its Service. The Station we are in sets us above the answering every spiteful Writer. But, next to the Queen, we owe it to your Lordships to satisfy you, if any thing sticks with you. We hope we may appeal to the World, and to our Dioceses in every particular, whether our Labours do not shew a true Zeal for the Church, in all its Concerns ? We are the Disciples of the Cross, and must go through good Report, and ill Report : but, we hope, we are so well known, and have acted so long in a public Scene, and have acted such a Part on it, that we may reckon ourselves above such Calumnies.

‘ Even

'Even St. Paul said, he became a Fool in glorying, but Anno 2 Annæ, 1703.
 it was when others compelled him to it : We must freely own, that there have been such Severities among us in every Reign, since the Reformation, that these are Blemishes not easily wiped off. The Burnings in King *Edward's* Reign is the Reproach of that Time. The capital Proceedings in Queen *Elizabeth's* Reign, and the severe Act of the 25th Year of it, that punishes Meetings with Imprisonment, Banishment and Death, is a Blemish, even on that long and glorious Reign. The Repeal of that Act past in both Houses; and it is known by what Management it was, that it was not tendered to the Royal Assent. The mention of Queen *Elizabeth's* Reign leads me to take notice of what has been said in relation to the Maxims, by which she governed herself, as if she had been inflexibly steady in the Observation of the Laws in Matters of Religion. It is certain, that she treated the Papists, all along, with very particular Indulgence ; she would have the Peers excused from the Obligation to take the Oath of Supremacy ; she employed Papists in all her Affairs ; they were Privy-Councillors, and Lord Lieutenants ; her Lord-Treasurer protested against all Acts for the Reformation, and was known to be a Church-Papist, or an Occasional Conformist ; and yet he continued in that great Post 14 Years, till he died ; she encouraged the Occasional Conformity of Papists, and apprehended no Danger in that, even from them ; and yet, I hope, it will be acknowledged that there was more Reason to be afraid of them, considering both their Numbers, and the Hopes of a Popish Successor, than we have now to be afraid of the Dissenters. She encouraged Occasional Conformity, and no Body was uneasy at it; but the Pope saw what it was like to end in, and therefore he took Care to put a Stop to it.

'The Severities in King *James's* Reign cast a Blot on it ; and the Proceedings in the Star-Chamber, and the High-Commission, are set forth by a noble Historian, as Things that did not a little contribute to bring on us the Miseries of a Civil War. The Proceedings in King *Charles the Second's* Reign were severe, and set on with bad Designs. That in a Time, both of War and of a Plague, such an Act as the Five-mile Act should have passed, will amaze all that know the Secret of that Time. Soon after the Restoration, it had been a very easy thing to have made up all Differences among us, but the Design was to enflame them ; and that Matter was far driven, as we all know. The Earl of *Bristol* called together a Meeting of the chief of the Papists, and tendered them an Oath of Secrecy, as the Lord *Stafford* told me in the Tower, and told it likewise at the

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Bar of the House ; he then told them, that the Breach between the Church and the Dissenters was now fixed, and would be carried further ; it was therefore their Interest to make Use of all the Provocations the Dissenters might meet with, and to offer their Assistance to them, in order to the engaging them to petition for a general Toleration : Yet they could never be brought to it. When the Declaration for a general Toleration, in 1672, was questioned in Parliament, which brought on the Act of the Test, set forth in the Preamble of this Bill, the Lord *Clifford* got some to move in favour of the Dissenters, hoping that would have provoked either the one Side or the other, and that either the Church Party might be offended with the Motion, or the Dissenters with the refusing it. That was stopt by Alderman *Love*, who desired, tho' his own Persuasion was well known, that nothing with relation to them might intervene to stop the Security, that the Nation, and the Protestant Religion would have by that Act : In this he was seconded by most of that Party, so that the Act was obtained, in some measure, by their Assistance, and therefore it would be hard to turn it against them ; for the King was then highly offended with them, for the giving up his Declaration. This wrought so much on that House, that was so zealous for the Church, that they ordered a Bill to be brought in for the Ease of Protestant Dissenters, in which little Progress was indeed made, yet to the End of that Parliament, the Conventicles were held very publicly, and they never passed a Vote, or made an Address against them. In the End of King *Charles's* Reign we all remember, that a new Prosecution of them was set on foot ; and even then, when the Severities against them were very hard, they were sollicited by the Agents of the Court to petition for a general Toleration, but they could not be prevailed on. What some of them did in King *James's* Reign is well known, and cannot be excused. By all this we see, that the whole Management, with relation to Dissenters, was an Artifice to advance a Popish Interest, which must needs give a just Jealousy of every thing that looks that way. After the late King had delivered us from all our Fears and Dangers, to whom (let ungrateful and malicious Men treat his Memory as they please) we owe our present Happiness, and that we are now fitting here, his next Care was to secure the Church of *England* by the Act of Toleration, which has not only set the Dissenters at Ease, but has made the Church both stronger and safer, since God has so blessed our Labours, that we see the Dissenters lose as much Strength as we gain by it. The Heat raised by those Dissenters is much allayed, and their Numbers

Numbers are abated by a moderate Computation at least a Anno 2 Annar, fourth Part, if not a third. But now they are alarmed and begin to put on more Zeal, for they apprehend the Toleration aimed at; and that, how little soever seems to be in this Bill, it is a Step, and will be followed by more, that are kept in reserve till this Point is once gained. The next Step may be for their Wives and Children, and so the Matter may be carried on till the whole Toleration is broke thro'. If one picks at a great Dyke that keeps out the Sea, it will be thought, how small a Breach soever he makes at first, that he designs a total Inundation. This seems to weaken and shake the Toleration; so Men will grow jealous, and be on their Guard, and by this means we of the Church shall not have so free and unexcepted an Access to work on their Reasons, which we now do with so much Success, when once their Passions are kindled against us. The present State of our Affairs makes this yet more unseasonable. It is a common Maxim, followed even by Persecutors, to keep Things quiet at Home, when Nations are engaged in War; especially in such a War as this, which is for universal Monarchy, where all is at Stake. There may happen great Accidents in War, and it is no way advisable to raise Discontents or Apprehensions in great Numbers at Home, which may come to have very ill Effects, when we are in no good Condition to deal with them.

‘ I know somewhat of Foreign Affairs: During the first six or seven Years of the last Reign, it was the common Topic of the Agents of France, in the Courts of our Allies, that England was so disjointed by Factions at Home, that there was no trusting to it; no doubt the same Arts are now practised. Portugal and Savoy are two Allies of the greatest Consequence to us, who have no Strength to resist the Force that will be poured in upon them, but as they hope to be supported by the Treasure, the Fleet, and the Assistance of England. Any thing that divides and weakens us must give them a melancholy Prospect, and may make very dangerous Impressions on them; whereas our Union at Home, and the maintaining the happy Calm the Nation is now in, will induce them to depend more firmly on our Treaties with them.

‘ Some things give a just Suspicion, when the Men who promote them, and write for them without Doors, are the known and avowed Enemies of the Government, who deny the Queen's Title, and are looking to one beyond Sea. Can we think that those who separate from our Churches, and have raised a Schism in it, can be zealous for the Peace and Order of the Church? They are zealous for somewhat else, and therefore we may well believe their Zeal in this Particular,

anno 2 Anne, 1703. lar, is with a View to that to which they are driving. One Author, who has writ two Books in behalf of this Bill, is known to be the furiousest Jacobite in *England*, and does not conceal it, even in those Books. In one of these he says He is one called an High Church-man. These are new Terms of Distinction, raised on design to distract us yet more. I know no High Church, but the Church of *Rome*; and that Author *L*— has in another Book shewed us, how neare he comes to that Church, when he proposes, That a Treaty may be set on foot between our Convocation, and the Assembly of the Clergy of *France*; and that we should abate the Regal Supremacy, and they the Papal, and then he fancies all other Matters could be easiy adjusted: So here we see who are to be called High Church. Our legal Establishment, founded upon the primitive Pattern, is the true Measure of our Church; and those who rise above it, are as much out of the way, as those who fall below it. But I knew one of the eminent Papists of the Age, who used often to say, He was for the Church of *England* as by Law established; I took the liberty to ask him how such a Profession did agree with his Sincerity? He answered, He looked upon the Laws of Queen *Mary* as yet in full Force, for he thought Queen *Elizabeth*, who repealed them, had no more Right to the Crown than *Oliver Cromwell* had, so that her Laws were no Laws. I confess, ever since that time, I have been jealous when I hear some Persons pretend so much Zeal for the Church of *England*. The Fury with which this Matter is driven, does heighten the Jealousy. What great Matters could this Bill produce, if there were not somewhat under it?

‘ How comes it that our Bench should be indecently treated, because we cannot all of us think it seasonable, and do not apprehend that we need it? We have, in the whole Course of our Lives, adhered to the Interest of the Church at all Perils, and in all Times, without ever once in any particular leaning to the Dissenters: And yet we, who have been our whole Life long, by our Labours and Writings, building up the Church, must now be defamed as the Underminers, because we cannot comply with other Men’s Notions. The Head of our Order is misrepresented with as much Injustice as Virulence, tho’ he stood as in the Front of the Church in the most dangerous Times; and false Stories are made, and publicly reported of him. I love not to use harder Words, but this could be the better borne, if it were not for the Relations and Dependencies of those who vent them. I myself have met with a large Share of such Treatment, though in no step or part of my Life, I ever gave the least Occasion for it. When I wrote the History of the Reformation,

gation, for which I had the Thanks of this House, I was ~~Answered~~ ^{Answered} under no Byas; I had neither Favour nor Interest to ^{1703.} give me, so that I wrote purely what was my own Sense of Things; and yet I took care to mark all the first Beginnings of Nonconformity, all the Grounds they went on, and all the Colours that imposed on them, and have shewed the Mistakes and Weaknesses of every one of them, with an Honesty and Zeal that ought to set me beyond Suspicion. But I own I began the World on a Principle of Moderation, which I have carried down thro' my whole Life, and in which I hope I shall continue to my Life's End. There was a time when those who are now so furious, and perhaps so full of hopes, needed my Service, and I had some Credit, which for some Years was chiefly employed in their behalf. Your Lordships may remember with what Vehemence I pleaded, for excusing the deprived Bishops from the Oaths. Others were then, and are now in great Posts, who, I am confident, will do me the Justice to own, that I was the common Agent both for Papists and Jacobites in Distress; for which we are now so ill rewarded. But now to speak to the Title of the Bill, Occasional Conformity, I cannot in the general condemn this, but as it is accompanied with Error and Mistake. For a particular Instance, I myself was an Occasional Conformist in *Geneva* and *Holland*. I thought their Churches were irregularly formed, under great Defects in their Constitution, yet I thought Communion with them was lawful, for their Worship was not corrupted; but at the same time I continued my Communion with our own Church, according to the Liturgy of this Church, with all that came about me. And if the Designs of some of the Promoters of this Bill should be brought about, and I driven beyond Sea, (unless among other unpardonable People, I should be at first knocked on the Head) I, in that Case, would communicate with the Foreign Churches, but would likewise gather all of this Church about me, and still continue to worship God, according to the Liturgy to my Life's End. So I think Occasional Conformity, with a less perfect Church, may well consist with the continuing to worship God in a more perfect one. It remains then a Point of Opinion which Church or Society is the less perfect. In this I am sure our Church is the more perfect and regular, and that the Separation is founded upon Error and Mistake; and that true Edification is among us, and not among them; but some of them, by unhappy Education, think otherwise, and in this they are certainly to blame, as they are in every Part of the Separation. But if it is intended to tolerate them under their other Mistakes, I do not see why this should not be tolerated likewise, since it is much less dangerous

June 2 Anne. 1703. gious than the other Practices, which are not at present complained of.

The noble Historian, whom ye are now all reading with pleasure, finds great Fault with those who did not go to the French Churches, even where they had an Ambassador's Chapel to resort to, tho' this was certainly an Occasional Conformity with a less perfect Church, where there was no Obligation to go to it; and when they had a more perfect one at hand. It has been a Topic insisted on by all who have writ against the Dissenters, from the first Beginning of the Disputes down to the present Times; they have been always called on to come as near the Church as they could, and to do all that they could do with a good Conscience, and therefore, before the Wars, great Difference was made between the Puritans and the Brownists or Separatists, on this very Account: But now all that is reversed; the Separatists are well look'd on, whereas those who come much nearer us are discouraged, tho' we all see, that this is a Step, by which many come over entirely to us, and the Children of others do enter into a constant Communion with us; and shall we go to cast a Scandal on this to discourage it?

In my Diocese, those who are Occasional Conformists out of Principle, who sometimes go to Church, and go sometimes to Meetings, are without Number; who yet have no Office, and seem to pretend to none; I confess I do not desire to press it too hard upon them, that they may not do both, lest this instead of keeping them from Meetings, hinder them from coming to Church. I have heard but of one in my Diocese, who goes to Meetings, and that is only to a weekly Lecture.

Therefore, since Occasional Conformity is only to be blamed, when it goes upon an Error and a mistaken Principle, I do not see why it should be worse treated than the Errors that are now tolerated, for it is, of all the Errors, that which has done the greatest Service to the Church.

I now come to the Bill itself: I miss a Preamble here, that was in the former Bill, in favour of Toleration, which is now left out; I confess I don't know how it came to be there; for it did not very well agree with the Bill, especially as it was first sent up to us. It put me in mind of a Clause in the Sentence of the Inquisitors; when a Heretic is condemned, and delivered to the secular Arm, they conjure the Magistrate by the Mercies of God, and the Bowels of *Jesus Christ*, that no Harm be done to the obstinate Heretic, neither in Life nor Limb; but all this is but Farce, for he is to be burnt immediately: Yet, after all, these Words were a solemn Declaration that could not have been forgot, if other Matters

Matter had been afterwards offered atc They are now left ~~anno 1689~~
 out with great Sincerity, no doubt, by those who do not in- 1702.
 tent to maintain the Toleration-Act; a very honest Part
 when they will not profess it! I know it may be said, let us
 put in these Words, and stand to them. But still this will
 not lay the Apprehensions, that the leaving out these Words
 will raise, as if the original Design of this Bill was to strike
 at the Toleration; and that therefore those who have con-
 trived it, would not limit themselves by Words of their own
 framing, so they may, to carry their Point, consent to their
 being put in by others, to which they do only give way,
 which they will not think to be such a Tye on them, as if
 they had, of one accord, put them in the first Draught of
 the Bill. There are other Words in the Preamble, that do
 not appear to me to be well grounded after the two Acts, the
 Corporation-Act and the Test-Act are set forth. It is infer-
 red, that it was intended, that all Men comprehended in
 them should be, and always continue to be of the Commu-
 nion of the Church of *England*. By the first of these Acts,
 no Man could bear Office in a Corporation, unless he had
 received the Sacrament within three Months after; so by
 the other, he who had a Place of Trust was to receive the
 Sacrament within three Months after, so by these Acts, it is
 very true, that no Man might be in any Employment, who
 either had not been, or was not then in the Communion of
 the Church; but there is not a Clause, nor a Word in either
 of these Acts, that imports, that he should always continue
 to be so. If the Clause once offered had been received, oblig-
 ing such Persons to come to Church once a Month, and to
 receive the Sacrament once a Year, when this Intention
 should have been fairly declared; but, as it is, since no such
 Clause appears, I don't see how, in a Recital, we can affirm
 a Thing that has no Foundation, for how unlimited soever
 our enacting Power may be, yet in a Recital a Thing must
 either be as it is set forth to be, or all the Authority on
 Earth cannot make it to be otherwise than it is. As for the
 enacting Part, when in a proper Time a Bill shall be brought
 in, disabling all to hold any Employment, but those who
 continue to be in the Communion of the Church of *England*,
 I shall concur in it heartily; but for a Fine of 50/. I can-
 not agree to it; that Punishment goes further than disabling;
 I cannot agree to any such Clause: Nor is it consistent with
 the Act of Toleration, to lay a heavy Fine for going to a
 Meeting tolerated by Law: Nor can I consent to the reck-
 oning the foreign Churches tolerated among us, which are
 by Name excepted in the Act of Uniformity, among the
 Meetings of the Separatists from our Church. This will
 have

Anna & Anna, have a strange Sound all the World over, and will be mighty Discouragement to all abroad, who expect Deliverance and Protection from hence, when they understand that it is made so criminal a Thing to worship God with them, and according to their Way: For these Reasons, I think this Bill ought not to be now entertained, but that the Subject-Matter of the Bill ought to be left to be considered at a proper Time.

Lord Haverham.

Lord Haverham

My Lords,

‘ I am very little personally concerned in this Bill; I have no Office, I expect none, nor do I desire any; and yet I pay as much Duty to her Majesty, and wish as well to her Government, as those that have half a Dozen.

‘ I shall not, my Lords, enter into the Consideration of the Justice or Injustice of this Bill, whether a Man may be deprived of what he has a legal Right to, without any Forfeiture on his Part; tho’, in my Opinion, he may; because private Right is always to give place to public Safety; and nothing else can justify one of the best Bills that ever was made for the Security of the Protestant Religion, I mean the Test-Act: But this is not the Case here; the Persons affected by this Bill are such as have always been serviceable to the Government, and are some of the best Friends to it.

‘ Nor shall I trouble your Lordships to shew, that the great Enemies of the State do not so much consider you as you are three different Nations, but as you are an embodied People under one Sovereign. Neither does the Church of *Rome* so much oppose you, as considered under the Notion of Church of *England*, Occasional Conformist, or Dissenter; but as you are Part of the Northern Heresy, as you deny the Supremacy, Infallibility, and assert the Idolatry of their Church: They have no more Affection for any one of these Persuasions, than for another, and equally design the Ruin of us all.

‘ But, my Lords, that which I shall strictly speak to, is the Point of Time in which this Bill visits you; and, in my Opinion, it could never have come in a more unseasonable and more dangerous Juncture: I hope your Lordships will not think I wander from the Subject of the Debate, if I shew you a little the present Posture of our Affairs, as to many Arguments, that at least will, I hope, justify me for giving my Vote against a second reading of this Bill.

‘ First, my Lords, if we consider what a potent, what a vigilant Adversary we have to struggle with, the *French* King, a Prince whose Designs are laid upon the greatest Maturity of Deliberation, carried on with the greatest Secrecy.

not ad extorted with the greatest Difficulties. There is no Army a Army, 1703. Junctures in his Councils, his Troops are never surprised, his Men are never betrayed, his Attempts never disappointed, either by either the Emulation, Envy, or private Piques of his Generals. He can bring his Armies sooner into the Field, and keep them longer there than we can; nay, can more with a small Part, after we are gone into Winter-quarters, than we can with the main Body of ours in a whole Campaign, and that too, when they are commanded by a General that has retrieved the Glory of the English Nation. We, my Lords, all Heads, all Hearts, all Hands, are little enough against such an Enemy.

In the next place, my Lords, what heavy Taxes lie upon us here at home, without any Hope of Ease, and very little Expectation of Advantage? The Reason why Men chearfully undergo such Burthens, is because they expect some publick Advantage by them, or, at least, that they may enjoy the Remainder with Security: But, when they have no Prospect from what is given, and are not secure of enjoying what is left, it will come very hard. We have, my Lords, given great Sums the last Year for the Army; but what great Matter have we done? For my own Part, I think no Man can reasonably expect more from what we are now raising this Year, than to meet again next Winter, and give more, and so on.

And as to our Navy, what a vast and fruitless Expence have we been at? I confess to your Lordships, when I consider these two Heads, it puts me in mind of old Jacob's Prophecy of his Son Iffacbar, in the 29th Chapter of Genesis; Iffacbar is a strong Ass, couching under two Burdens, he bowed his Shoulders to bear, and became a Servant to Tribute. I believe this Prophecy has been fulfilled elsewhere.

Was there ever such an Expedition undertaken as that, into the Straights, last Summer? I could never yet meet with that Man who could give a reasonable Account of it: Sure, no Man will say that it was to carry on your Trade; that was to put the Nation to a Million Expence to carry out 3 or 400000 £. and make a kind of Necessity of as much more to bring it home: Nor will any Man, I think, own, that so great a Force was sent thither to make the Italian Princes declare for the Emperor, and then leave them to the Mercy of the French: 'Tis very true, so vast a Fleet plainly shewed how formidable a Power the Confederates were by Sea; sure, it shewed also the Weakness of our Conduct, that knew so little what to do with it.

But there is one Thing, my Lords, that above all impresses me: Every Body knows, that the Foundation of all 1703. our

Anno 2 Anne, our Expectations and Designs of placing the House of *Austria* on the Throne of *Spain*, is laid on the Assistance we expected from *Portugal*; we know too, by the manner of that Prince's Conduct and Treatment with us, that no Prince is governed more by Interest. Why then was not a greater Part of so vast a Fleet left there to countenance or secure him? Sure, 'tis unaccountable that he should have any just Cause to apprehend himself either forgotten or neglected. No Man knows what Difficulties or Delays may force him to.

‘ A noble Lord, with a white Staff, gave it as a Reason, who, tho' he was against the bringing in of this Bill, yet, since it had passed another Place, he was for it; because the not passing of it now, he feared, would create a great Disturbance in our Affairs; which I take to be a great Reason against this Bill: For 'tis very well known, the leading Part of the Nation are most concerned in it; and, if this Bill should pass, the sad Effects of it would soon be found in the Exchequer.

‘ Besides all this, my Lords, what great and irreparable Losses have we had? The Parliament may vote Money, and Money may build Ships; but it is impossible to recover our Seamen, nor is there any Encouragement to them, or Nursery for them.

‘ There is one Thing more, my Lords, which I will at present but name; because upon some other Occasion I intend to speak more of that Point. It may perhaps seem too big to be named, but I shall never think any thing so, that may prove dangerous to the Crown or Government: It is the extraordinary Favour of one or two Persons. A Thing that has been very fatal to the Royal Family, and what has been may be. I will only in short say, when all the Favour is bestowed upon one or two Persons, when all the Power by Sea and Land is either virtually or openly in one Hand; when all the Offices, like a Set of Locks, are commanded by one Master Key; I pray God it never may again prove fatal both to Crown and Country.

‘ Give me Leave only to recapitulate and say, whether your Lordships consider the present Posture of our Affairs, either at Home or Abroad, by Sea or Land, in a Court or Camp, I can never think this a proper time for such a Bill.’

Duke of Devonshire, Earl of Peterborough, Lord Mohon, Lord Ferrers, Lord Wharton. These two Lords were supported by the Duke of Devonshire, the Earl of Peterborough, the Lord Mohon, the Lord Ferrers, and the Lord Wharton. The last of these, to shew the Unseasonableness of any thing that might seem to lead to Persecution, took notice of the distracted State of Scotland, and of the Insolence of the Papists in Ireland; adding, they

they ought rather to imitate the Parliament of the latter Anno 2 Anne, King, in their Zeal against Popery, than to frame Laws to increase their Divisions here. And the Lord Mohun, a Peremtively conspicuous for his Parts, and his Affection to the Protestant Succession, did not stick to say, that if they passed this Bill, they had as good tack the pretended Prince of Wales to it. Upon the whole Matter, the Bill, after a The Bill re-
second reading, was rejected by a Majority of twelve Voices, rejected. but because there is some Difference, especially in the Pre-
amble between this and the Bill, the preceding Year, it will not be improper to insert an Abstract of it in this Place.

Whereas by an Act made in the 19th Year of the Reign of King Charles II. entitled, An Act for the well-govern- Abstract of the
ing and regulating of Corporations, it is, among other Occasional
Things therein contained, enacted, That from and after the Conformity Bill.
24th Day of March, 1663, no Person or Persons should for ever be placed, elected, or chosen in or to any Office or Place of Mayor, Alderman, Recorder, Bailiff, Town-clerk, Common-Council-man, or any Office or Offices of Magistracy, or Place, Trust, or other Employment relating to, or concerning the Government of any City and Corporation, within the Kingdom of England, Dominion of Wales, or Town of Berwick upon Tweed, who should not within one Year next before such Election or Choice, have taken the Sacrament of the Lord's Supper, according to the Rites of the Church of England; and in default thereof, every such Placing, Election and Choice, was thereby enacted and declared to be void.

And whereas, by another Act made in the 25th Year of the Reign of the said King Charles II. entitled, An Act for preventing Dangers which may happen from popish Recusants, it is enacted, among other Things therein contained, That all Persons, who should be admitted into any Office, civil or military, after the first Day of Easter-Term, in the Year 1673, should receive the Sacrament of the Lord's Supper, according to the Usage of the Church of England, within three Months after their Admittance, in some public Church, upon some Lord's Day; and that all Persons, who should neglect or refuse to take the Sacrament, as aforesaid, should be, *ipso facto*, adjudged incapable, and disabled in Law to all Offices and Employments whatsoever, to have or enjoy the said Offices or Employments. By which said several Acts it was manifestly intended, that all Persons to be admitted into such Offices and Employments should be, and always remain conformable to the Church of England, as by Law established; yet the said Acts have been most notoriously and scandalously eluded by many Dissenters from the Church of England, who have received the Sacrament of the Lord's Supper, in order

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1703.

only to have or retain such Offices and Employments, and to evade the Penalties of the said Laws, and have afterwards withdrawn themselves from the Communion of the Church of *England*, and resorted to Conventicles for the Exercise of Religion, in other manner than according to the Liturgy and Practice of the Church of *England*.

‘ For the preventing therefore such a scandalous and irreligious Practice for the future, and the evil Consequences thereof,

‘ Be it enacted, &c. That if any Person or Persons, after the 24th Day of *March*, 1704. either Peers or Commoners, who have, or shall have any Offices, Civil or Military, or shall have any Command or Place of Trust, from under her Majesty, her Heirs or Successors, or from any of her Majesty’s Predecessors, within the Kingdom of *England*, &c. or in the Navy, or in the several Islands of *Jersey* and *Guernsey*, or shall be admitted into any Service or Employment in the Household or Family of her Majesty, her Heirs or Successors, or if any Mayor, Alderman, or other Person, bearing any Office of Magistracy, or Place, or Trust, or other Employment relating to, or concerning the Government of any of the respective Cities, Corporations, &c. who by the said recited Acts, or either of them, were, or are obliged to receive the Sacrament of the Lord’s Supper, according to the Rites or Usage of the Church of *England*, shall at any time after their Admission into their respective Offices or Employments, or after having such Patent or Grant, Command or Place, or Trust, during their Continuance in their Offices or Employments, knowingly or willingly resort to, or be present at any Conventicle or Meetings, under pretence of any Exercise of Religion, in other manner than according to the Liturgy and Practice of the Church of *England*, in any Place within the Kingdom of *England*, &c. at which Conventicle, there shall be ten Persons or more assembled together, shall forfeit 50/- to be recovered by him or them that shall sue for the same, by any Action of Debt, Bill, Plaintiff or Information, in any of her Majesty’s Courts at *Westminster*; wherein no Essoign, or Protection, or Wager of Law shall be allowed, or any more than one Impariment.

‘ And, be it further enacted, That every Person convicted in any Action, or upon any Information, in any of her Majesty’s Courts at *Westminster*, or at the Assizes, shall be disabled from thenceforth to hold such Office or Employment, and shall be adjudged incapable to bear any Office or Employment whatsoever, within the Kingdom of *England*, &c.

‘ Provided always, That if any Persons, who shall have been convicted, and thereby made incapable to hold any Office, shall, after such Conviction, conform to the Church of

England

Expel for the Space of one Year, without having been present at any Conventicle or Meeting, and receive the Sacrament of the Lord's Supper, according to the Rites and Usage of the Church of England, at least three times in the Year, such Persons shall be capable of the Grant of any the Offices or Employments aforesaid.

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Provided also, and be it further enacted, That every such Person so convicted, and afterwards conforming in manner aforesaid, shall at the next Term after his Admission into any such Office or Employment, make Oath in writing in any of her Majesty's Courts at Westminster, or at the next Quarter-Sessions for that County or Place where he shall reside, that he has conformed to the Church of England for the Space of one Year, before such his Admission, and that he has received the Sacrament of the Lord's Supper at least three times in the Year, provided that no Person shall suffer any Punishment for any Offence committed against this Act, unless Oath be made of such Offence, before some Judge or Justice of the Peace, within ten Days after the said Offence committed; and unless the said Offender be prosecuted for the same within three Months after the said Offence committed; nor shall any Person be convicted for any such Offence, unless upon the Oaths of two credible Witnesses at the least.

Provided always, That this Act, nor any thing therein contained, shall not extend, or be judged to take away, or make void any Office of Inheritance; nevertheless, so as such Persons having or enjoying any such Office of Inheritance do, or shall substitute and appoint his sufficient Deputy, to exercise the said Office, until such time as such Person having such Office shall conform, as aforesaid.'

Having in this manner given an Abstract of the Bill, it will not be improper to add a List of the Lords spiritual and temporal, who voted for or against it, to which also we shall add the Proxies.

List of the
Lords who voted
for and against
the Bill.

FOR THE BILL,

Lord Treasurer, Earl of Godolphin; Lord President, Earl of Pembroke; Lord Privy-Seal, Duke of Buckingham.

DUKES

Of Leeds, Bedford, Marlborough Captain-General,

EARLS

Of Jersey, Lord Chamberlain, Kent, Bridgewater, Northampton, Denbigh, Winclesea, Carnarvon, Thanet, Scarsdale, Anglesea, Sussex, Nottingham, Secretary of State, Rochester, Abingdon, Plymouth.

VISCOUNTS.

Weymouth, De Longueville.

BARONS.

BARONS.

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La Warr, Chandos, Parvost, Ryton, Osborn, Dartmouth, Starwell, Guilford, Ashburnham, Barnard, Weston, Granville, Guernsey.

BISHOPS

Of York, London, Winchester, Rochester, Chester, St. Asaph.

PROXIES.

Northumberland, Schomberg, Lindley, Great-Chamberlain, Exeter, Sandwich, Bishop of Durham, Bishop of Landaff, Bishop of Exeter, Willoughby of Broke, Maynard, Leigh, Craven, Lempster, Gower, Conway.

In all Fifty Nine.

AGAINST THE BILL.

DUKES

Of Devonshire, Lord Steward, Somerst, Master of the Horse, Richmond, Southampton, St. Albans, Bolton, Newcastle.

EARLS

Of Derby, Leicester, Bolingbroke, Manchester, Rivers, Peterborough, Stamford, Sunderland, Essex, Faversham, Radnor, Berkeley, Portland, Tarrington, Scarborough, Bradford, Rumney, Orford.

VISCOUNTS.

Say and Seal, Townshend.

BARONS.

Abergavenny, Ferrers, Wharton, Paget, Howard of Escrick, Grey of Wark, Lovelace, Mowbray, Vaughan, Culpepper, Lucas, Rockingham, Berkeley, Cornwallis, Offulstone, Herbert, Hawkesham, Somers, Hallifax.

BISHOPS

Of Canterbury, Worcester, Salisbury, Ely, Litchfield, Norwich, Peterborough, Lincoln, Chichester, Oxford, Bangor.

PROXIES.

Suffolk, Carlisle, Earl Marshal, Dorset, Burlington, Merton, Coventry, Fitzwalter, Eure, Willoughby of Parham, Bishop of Hereford, Bishop of Gloucester, Bishop of Bristol.

In all Seventy One.

The Question being carried for rejecting the Bill, the following Peers enter'd their Dissent.

Gedolphin, Rochester, Buckingham, La Warr, Towne, Northampton, Marlborough, Wimbleton, Nottingham, Abingdon, Longueville, Weymouth, Guilford, Granville, Guernsey, Weston, Carnarvan, Carmarthen, Starwell, H. London, G. St. Asaph, Thos. Roffe, N. Cefnien.

On

On the 17th of December her Majesty made a Speech to Anno. 2 Anne, both Houses, wherein she acquainted them with a Plot carried on in Scotland by the Emissaries of France, and said she would lay the Particulars before them, as soon as they could be made public, without Prejudice. 1703.

Upon which the House of Peers appointed a select Committee of seven Lords, to take Examinations, as to the Plot, and presented an Address to the Queen, wherein they thanked her for promising to communicate those Informations to them of the ill Practices of her Enemies in Scotland, and doubted not but the Zeal that House had shewn for having the Conspirators secured, and their Designs brought to light, had been very acceptable to her Majesty; and that they would, by their utmost Zeal, maintain the Rights of the Crown, and the Church of England, in all such Ways as might best answer her Majesty's pious Designs, and might most promote the Good and Happiness of all her Subjects.

This Proceeding of the Lords giving Umbrage to the Commons, it occasion'd a violent Struggle between the two Houses, by way of Appeal to the Crown instead of Conference with each other, as usual in the like Cases: A Detail of which is to be met with in CHANDLER's *History, Anno 2 Anne, 1703, Page 284*, except a farther Remonstrance of the Lords to the Queen, in reply to one of the Commons, and a Protest on the Narrative of Sir John MacLean, relating to the Scottish Conspiracy; both which Pieces hereafter follow according to the Order of Time in which they were drawn up.

The two Houses had, likewise, another Skirmish on the Case of Charles Batburst, Esq; which see in CHANDLER's *Hist. Anno 2 Anne, 1703, Page 303.*

The Lords having made an Enquiry into the present Condition of the Navy, ordered the Observations they had made concerning the same to be put into an Address, March the 2d, wherein they said,

'That, by Reason of the great Want of Men, (6000) the allowed Complement for the whole Number of Ships, necessary for the Defence of the Kingdom, could not be depended upon, they thought it a Duty incumbent on them to make an humble Application to her Majesty, desiring that she would be pleased to give speedy and effectual Orders, that such a Number of Ships, proper for the Home-Service, might be forthwith got ready and mann'd.'

The Queen answer'd, "She was glad they found no greater Number of Seamen wanting at this Seafon of the Year; and she hoped such Measures were already taken that no Service should be disappointed, either at Home or Abroad, which was necessary for the Security and Advantage of the Kingdom, or the Protection and Encouragement of Trade." Queen's Answer.

Besides

Anno 2 Anne, 1703. Besides their Lordships former * Vote against Admiral Graydon, they resolved to address her Majesty to ' remove the said Admiral from all Places of Trust in the Government, for impressing Servants in the *West Indies* on board his Squadron, to the Ruin and Destruction, and against the Laws of those Islands; and that her Majesty would be pleased to order her Attorney-General to prosecute him at Law for the same.'

The next Day the Lords took into Consideration the Report of the Commissioners of the Public Accounts in what related to the Earl of *Orford*, as late Treasurer of the Navy, and resolved, That he had made up his Accounts very fairly.

Bill for raising Recruits, pass'd. March the 21st, *Hodie 3^a vice letta est Billa*, entitled, An Act for raising Recruits for the Land-Forces and Marines, and for dispensing with Part of the Encouragement and Increase of Shipping and Navigation, during the present War.

The Question was put, Whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentient'

Protest thereon. Because there is in this Bill the following Clause, *viz.* (That it shall and may be lawful for the Justices of the Peace of every County and Riding within this Realm, or any three or more of them, to raise and levy such able body'd Men, as have Means for their Maintenance or Livelihood, to serve as Soldiers, for the Purposes in the Bill mention'd.)

Dartmouth, Anglesea, Gower, Torrington, Lempster, Stawell, Guernsey, Haverham, Nottingham, H. London, Guilford, Crewe, Granville, Thanet, Rochester, Conway, George Bath and Wells, Abingdon, Poulet.

Vote on the Report of the Secret Committee. The Report of the Secret Committee of Lords being taken into Consideration by the House, March 22, their Lordships resolved,

1st, That it did appear to the House, that there had been a dangerous Conspiracy carried on for raising a Rebellion in *Scotland*, and invading that Kingdom with a *French* Power, in order to the subverting of her Majesty's Government, both in *England* and *Scotland*, and the bringing in the pretended Prince of *Wales*. 2^{dy}, That it was the Opinion of this House, that nothing can give so much Encouragement to this Conspiracy, as that the immediate Succession to the

* *Viz.* The Year before, That Vice-Admiral Graydon, with a Squadron of her Majesty's Ships of War under his Convoy, meeting with four French Ships in his Passage to the *West-Indies*, and letting them escape without attacking them according to his Duty, from the Pretence of his Instructions, had been a Prejudice to the Queen's Service, and a great Dishonour to the Nation.

the Crown of Scotland, after her present Majesty and the ^{Anno 3 Anno;} 1704.
Heir of her Body, was not declared to be in the Princess Sophia, and the Heirs of her Body, being Protestants.
3dly, That the Queen would be pleas'd to use her Endeavours, by such Methods as she should think most proper, to have the Succession of the Crown of Scotland declar'd to be settled on the Princess Sophia, and to take such Measures as might best conduce to the disappointing and frustrating of the Designs of her Enemies, who were engag'd in this Conspiracy against her Majesty and her Government. 4thly, That her Majesty be assured, that when her Endeavours shall take Effect, for settling of the Succession, this House would do all in their Power to promote the entire Union between the two Kingdoms for their mutual Security and Advantage.'

These Resolutions were ordered to be drawn into an Ad- ^{The Lords Com-}
mire, and the Lord-Keeper, by Order, gave the Lords Com- ^{mittee thank'd}
mittees the Thanks of the House for their Exactness, Care, and Fidelity in the Examination of the *Scottish Conspiracy*. They likewise recommended Sir *John Maclean* to the Queen for Pardon and Subsistence.

The 24th, After Debate upon the first Narrative made by Sir *John Maclean*, to the Earl of *Nottingham*, and several Questions proposed relating thereto,

This Question was staled, *viz.* That that Part of the Narrative relating to Sir *John Maclean*, and the Papers relating to his Examination, taken by the Earl of *Nottingham*, and laid before the Queen, the Cabinet-Council, and this House, are imperfect. Then,

The previous Question was put, Whether this Question shall be now put?

It was resolved in the Negative. Contents 30; Not contents 41.

Dissentient

Because the main Question seems to us to be the lightest Protest thereon, Censure that can be passed on the Account of Sir *John MacLean*, Discovery laid before the Queen, the Cabinet-Council, and this House, by the Earl of *Nottingham*, which we conceive is very defective, as well in the Substance of it, as in the Form and Manner in which it was taken: It is not writ by his own Hand, nor so much as signed by him.

There is no mention made of what Questions were put to him, or of his Answers thereunto.

There is no notice taken of his Negotiations with the Ministers of the Court of St. German's, who were all acquainted with this Conspiracy, as Sir *John Maclean* has given in

L

under

1703.

Anno 3 Annæ. under his own Hand-writing to the Lords Committees, 1704. which he acquainted them he had told to the Earl of *Nottingham*.

This Omission is of the greatest Consequence, in our Opinion, because the Papers given by *Ferguson* and *Lindsey* seem contrived to make it believed that the Court of St. Germain's has no Design to disturb her Majesty's Government during her Reign, and that the Earl of *Middleton* does all he can to prevent Conspiracies or Designs against her.

Sir *John Maclean* also informed the Lords Committees of the Correspondence intended to be carried on between him and the Earl of *Pertb*; as also of the Correspondence to be settled by *Frazier* and *Murray*, and which he told the Lords of the Committee, he had acquainted the Earl of *Nottingham* of; and yet there is no notice taken of it in the said Account laid before the House.

It being moved by some Lords that were against the main Question, that Sir *John Maclean* should be sent for to the Bar, and be heard as to the Particulars objected to the said Account, and seconded and agreed to by other Lords that were for the Question, that he should be brought to clear the Matter,

The Motion for sending him was waved, and the previous Question insisted upon.

Somerset, Torrington, Scarborough, Somers, Oxford, Carlisle, E. M. Rivers, Derby, Bolton, Mowbray, Manchester, Halifax, Gt. Sarum, Stamford, Abergavenny, Sunderland, R. Grey, Herbert, Essex, Rockingham, T. Wharton, Richmond.

Cafe of Ashby and White ordered to be printed.

March the 27th, It is ordered by the Lords Spiritual and Temporal in Parliament assembled, that the Report made from the Committees appointed to draw up the State of the Case upon the Writ * of Error, lately depending in this House; wherein, *Matthew Ashby* was Plaintiff, and *William White*, and others, Defendants, and the Resolutions made this Day relating thereunto, shall be forthwith printed and published, which was done to the following Effect:

AS H B Y against WHITE, & al†.

THE Plaintiff in this Action declares, that the 26th of December, in the 12th Year of King *William* the Third,

* See the Debate in the House of Commons on this Affair, Anno 3 Annæ, 1704, Page 308; - And likewise the farther Proceedings thereon, in the next Session, with the Conferences they produced between the two Houses, Anno 3 Annæ, 1704, Page 395.

† *Salkield's Report*, fol. 19, in *Cafe*.

Third, a Writ issued out of Chancery, directed to the Sheriff of Bucks, reciting, That the King had ordered a Parliament to be held at Westminster, on the 6th of February following: The Writ commanded the Sheriff to cause to be elected for the County, two Knights; for every City, two Citizens; and for every Borough, two Burgesses; which Writ was delivered to the Sheriff, who made a Precept in Writing, under the Seal of his Office, directed to the Constables of the Borough of Aylesbury, commanding them to cause two Burgesses of the said Borough to be elected, &c. which Precept was delivered to the Defendants, to whom it did belong to execute the same. By virtue of which Writ and Precept, the Burgesses of the Borough, being summoned, did assemble before the Defendants, to elect two Burgesses; and they being so assembled, in order to make such Election, the Plaintiff being then a Burgess, and Inhabitant of that Borough, being duly qualified to give his Vote at that Election, was there ready, and offer'd his Vote to the Defendants, for the Choice of Sir Thomas Lee, Bart. and Simon Mayne, Esq; and the Defendants were then required to receive and admit of his Vote.

The Defendants being not ignorant of the Premises, but contriving, and fraudulently and maliciously intended to damage the Plaintiff, and to defeat him of that his Privilege, did hinder him from giving his Vote; so that the two Burgesses were elected without any Vote given by the Plaintiff, to his Damage, &c. upon not guilty pleaded, the Cause went down to Trial, and a Verdict was given for the Plaintiff, and five Pounds Damages, and also Costs.

It was moved in the Court of King's-Bench in Arrest of Judgment, that this Action did not lie, and that Point was argued by Council, and afterwards by the Court.

The Lord Chief Justice Holt was of Opinion, that Judgment in this Cause ought to be given for the Plaintiff; but Mr. Justice Powel, Mr. Justice Powis, and Mr. Justice Gold being of a different Opinion, Judgment was entered for the Defendant: Whereupon the Plaintiff brought a Writ of Error in Parliament; and the Cause being argued at the Bar of the House of Lords by Council, and ten of the Judges, who were present in the House, being heard, and the Matter fully debated by the Lords, * the House was of Opinion, that

* The Cause of William White, Richard Talboys, William Bell, and Richard Heydon, Constables of the Town of Aylesbury, in the County of Bucks, in the Year 1700. In a Writ of Error brought in the House of Lords by Matthew Ashby, upon a Judgment given for the Constables against

Anne 3 Anne, that the Judgment given in the King's-Bench was erroneous,
1704. and that the Plaintiff had a good Cause of Action, and ought
to have Judgment.

To

against him in the Court of Queen's-Bench, last Michaelmas Term, as
drawn up by their Council, and presented to the House.

The Plaintiff, Ashby, being a poor, indigent Person, and coming to
settle in Aylesbury, the Overseers of the Poor there warned him out of
the Parish, unless he would give Security to save the Parish harmless ;
and to the Purpose complained to the next Justices of the Peace, to get an
Order to remove him : Whilst this Matter was in Controversy, the
Election for Burgeses of Parliament came on, and the said Ashby offering
himself to be polled, the Constables, (now the Defendants) refused to re-
ceive him to poll, being (in their Opinions) no settled Inhabitant there,
nor did he ever contribute to the Church or Poor, either before or since
the Election. After the Election was over, the said Ashby brought his
Action on the Case against the Constables, wherein he sets forth, that
he had Right to vote for Burgeses there, and that at that Election he
offered to poll for Sir Thomas Lee, and Mr. Mayne, and that the Con-
stables refused to receive his Poll, to his Damage of 200.

The Constables pleaded not guilty, and thereupon a Trial was had at
the Assizes at Bucks, and Ashby got a Verdict against them, and had five
Pounds Damages given.

Whereupon, according to the constant Course of that, and all other
Courts, it was moved in Arrest of Judgment in the Queen's-Bench, where
the Action was brought ; that, notwithstanding the Verdict, which only
found the Fact, yet no such Action did by Law lie against the Defendants ;
and after several Arguments at the Bar, and at last at the Bench, three
Judges (against the Chief-Justice) held, that the Action did not lie, and
no Judgment was given for the Constables.

And now the Plaintiff, Ashby, hath brought a Writ of Error in Par-
liament.

The Defendants conceive the Judgment in the Queen's-Bench well war-
ranted by Law.

1. No such Action hath ever been brought, notwithstanding the many
Elections that have been controverted every new Parliament ; whereby
it is evident, that it hath been the constant Opinion of all Lawyers, and
others, in all Ages, that such Action would not lie.

2. Several Acts of Parliament have been made to give Remedy by
Actions in Westminster-Hall, in some particular Cases of Elections to
Parliament, which shew there was no Remedy at Common Law in those
Courts.

3. There never were but three Actions upon the Case brought by
Candidates for false Returns, viz. Nevill's Case in the late Times, and
Sir Samuel Barnardiston's Case, and Onslow's Case in the Time of King
Charles II. in all which Cases the Defendants prevailed upon the Point
of Law, viz. that such Action would not lie. And if such Action does
not lie for one elected, much less will it lie for an Elector.

4. To support every Action upon the Case, there must be Damage,
in presenti, or a Possibility of Damage in future, which there cannot be
in this Case, unless it be presumed, that, contrary to Act of Parliament,
the Plaintiff was to have Money for his Vote.

5. If there was Damnum, (which there is not) yet it cannot be pre-
tended there was Injuria ; and Damnum absque injuria, is not sufficient to
support an Action upon the Case. As at the Common Law ; if the law-
ful Patron presented his Clerk to the Bishop, and he refused to admit him,

To maintain this Opinion, these three Positions were Anno 3 Anne,
laid down :

1704.

I. That the Plaintiff, as a Burgess of this Borough, had a legal Right to give his Vote for the Election of Parliament Burgesses.

II. That, as a necessary Consequence thereof, and an Incident inseparable to that Right, he must have a Remedy to assert and maintain it.

III. That is the proper Remedy which the Plaintiff hath pursued, being supported by the Grounds and Principles of the ancient common Law of *England*.

To make good the first Position, that the Plaintiff has a legal Right to give his Vote at the Election of Burgesses for this Borough, it was said, that it is well known, the House of Commons consists of Knights, Citizens, and Burgesses.

The Knights of Shires represent all the Freeholders of the Counties. Anciently, every the least Freeholder had as much Right to give his Suffrage, as the greatest Owner of Lands in the County. This Right was a Part of his Freehold, and inherent in his Person by reason thereof, and to which

it is conceived, no Action upon the Case lay against the Bishop, but a Quare impedit, in which, at Common Law, no Damages were given, which is a much stronger Case than this.

6. This is not to be compared to other Cases, where the Party hath no Remedy elsewhere than in Westminster-Hall; for here the Plaintiff hath a proper Remedy by applying to the House of Commons, although the Election is not contested by the Candidates, and parliamentary Causes are to be determined in Parliament: And therefore,

7. 'Tis conceived, that, since this Matter concerns the Election of Members to serve in Parliament, the Courts of Westminster-Hall being not empowered by an Act of Parliament in this Case, have no Cognizance in it, but the House of Commons have the Determination of it: And this Jurisdiction is confirmed to them by Parliament; for by the Act 7 and 8 Will. III. cap. 7. If any Person shall return a Member to serve in Parliament, contrary to the last Determination in the House of Commons, of the Right of Election, in such place the Return shall be adjudged a false Return; by which 'tis evident, that the Commons are the only Judges in all Matters where the Right of Election may come in question, as it must of necessity do, in all Cases where the Question is, who are the Electors.

8. If this Action should prevail, the chief Magistrates, in all Places where the Elections are made, would be in a miserable Condition upon every new Parliament, by reason of a Multitude of Actions, which probably would be brought against them upon all contested Elections, and by the different Judgments that possibly may be given in the House of Commons, and in Westminster-Hall, touching the same Election.

9. The laying it to be done *falso & malitiose* (which are grown to be almost Words of course in Actions on the Case) cannot give a Jurisdiction where it was not before; and, if those Words shall be sufficient, by being annexed to a Man's Intention, almost all a Man's Actions may be brought into Westminster-Hall by those Words, and subjected to the Power of a Jury.

T. POWYS, Cox. PHILIPS

Anno 3 Anne. which he had as good a Title, as to receive the natural Pro-
 fits of his Soil. This appears by the Statute of 8 *Henry VI.*
 cap. 7. which recites the great Inconvenience which did
 arise in the Election of Knights of the Shires; by Men that
 were of small Substance, who pretended to have an equal
 Right with Knights and Esquires of the same County,
 therefore that Right was abridged, and confined only to
 such Freeholders as had forty Shillings *per Annum*. But
 thereby it appears, that the Right which a Freeholder hath
 to vote in the Election for Knights of the Shire, is an ori-
 ginal and fundamental Right belonging to him as he is a
 Freeholder.

The second and third sort of Men, which compose the
 great Representation of the People of *England*, are Citizens
 and Burgeesses, who, tho' they differ in Name, yet are in Es-
 sence and Substance the same, for every City is a Borough,
 and, as such, sends Members to Parliament.

There are two sorts of Boroughs, the one more antient,
 the other more modern.

Of the first sort are the most antient Towns of *England*,
 whose Lands are held in Burgage, and by Reason thereof
 had the Right and Privilege annexed to their Estates, of
 sending Burgeesses to Parliament. The second sort are those
 Cities and Boroughs that have a Right by Prescription, Time
 immemorial, or by Charter, within Time of Memory, to
 chuse Burgeesses for Parliament; both these are upon several
 Foundations, the one as belonging to their Burgages, the
 other as belonging to their Corporations; the first is a real
 Right belonging to their Houses and Lands, the other is a
 personal Right belonging to their Body-Politic.

As for the first, it is sufficiently described in *Littleton's Tenures*, Sect. 162, 163, 164. A Tenure in Burgage is a
 Tenure in Socage, and is called a Tenure in Burgage, be-
 cause these are the most antient Towns in *England*, and from
 thence came the Burgeesses to Parliament, and they who have
 this Privilege, have it as belonging to their Estates or Posse-
 ssions.

The other Right of chusing Parliament Burgeesses, is not
 annexed to any Freehold or Estate in Possession, but vested
 in the Corporation of the Place, and is created in this man-
 ner, *viz.*

When a Town was incorporated, a Grant was either then,
 or after, made to the Body-Politic, that they shall have two
 Burgeesses for Parliament, to be chosen either by all the Free-
 men and Inhabitants of the Place, or such a selected Number
 as is prescribed by the Charter.

The Inheritance of this Privilege is in the whole Corporation Aggregate, but the Benefit, Possession, and Exercise is in the Persons of those, who by the Constitutions of those Charters, are appointed to elect. Anne 5 Anne; 1704.

And in all Cases, where a Corporation hath such a Privilege, the Members thereof in their private Capacity have the Benefit and Enjoyment thereof, because the Corporation, as such, is not to be represented: For it is not necessary that it should have any Estate, but by being a Corporation, they have only a Capacity to have Estates. *Jones 165. Hyward and Fulcher.* For as the Citizens and Freemen of a Place are incorporated for the better Government of those of the Place, so is this Privilege of having Burgesses given for the Advantage of the particular Members thereof, whose Estates are to be bound by the Acts of their Representatives.

And therefore the Wages of Citizens and Burgesses were always levied, not upon the Estates or Goods of the Corporation, but upon the Goods and Estates of the Members thereof. †

It appears by other Instances, that it is usual and proper for Corporations to have Interests granted to them, which enure to the Advantage of the Members in their private Capacities. *Moore 832. Sir Thomas Waller versus Hanger.* The King granted to the Mayor and Citizens of London, that no Prisage be taken and paid for Wines of the Citizens and Freemen of London. This enures to the Benefit of every Citizen and Freeman of London for his own Wines, in which the Corporation of the City hath no Interest.

But there is no such Notion in the Law of England, as a Right without a Remedy.

The same thing appears by the Case of *Waller and Spateman*, 1 *Saund.* 343. and by the Case of *Meller and Walker*. These Instances make it sufficiently appear, that tho' the Inheritance of this Franchise be in the Body corporate, yet it is for the Benefit of the particular Members thereof: And it is certainly a great Advantage for the Men or Inhabitants of a Place to chuse Persons to represent them in Parliament, who thereby will have an Opportunity, and be under an Obligation to represent their Grievances, and advance their Profit.

Of this Opinion have two Parliaments been, as appears by two several Acts, the one 34 & 35 H. VIII. cap. 13, the other 25 Car. II. cap. 9. The first is an Act for making Knights and Burgesses within the County and City of Chester, which begins in this manner, In humble wise shew to your Majesty, the Inhabitants of your Grace's County Palatine

† 46 Edward III. M. 4: dorso, &c.

*Anno 3 Ann^o, latine of Chester, that they being excluded and separated
1704. from your High Court of Parliament, to have any Burgesses
within the said Count, by Reason whereof, the Inhabitants
have hitherto sustained manifold Losses and Damages, as well
in their Lands as Goods and Bodies: Therefore it was en-
acted, that they should have Knights for the County, and
Citizens for the City of Chester: The other Act, which
constitutes Knights and Burgesses for the County Palatine,
and City of Durban, recites, That the Inhabitants thereof
hitherto had not the Liberty and Privilege of electing and
sending Knights and Burgesses to the High Court of Parlia-
ment.*

The Application of these two Acts is very plain; the
first saith, to be excluded from sending Knights and Burgesses
to Parliament, is a Damage to Lands, Goods, and Body;
the other saith, that it is a Liberty and Privilege to send
them.

Thus the Right of Election is explained, and shewed to
be a legal Right.

That of electing Knights of Shires, belonging to and inhe-
rent in the Freehold.

The other, of electing Burgesses, belongs in some Cities
and Towns to the real Estates of the Inhabitants; and in
others, is vested in the Corporation, for the Benefit of the
particular Members, who are the Electors; the having of
which is a great Benefit and Advantage to the People thereof,
and will prevent great Loss and Damage that otherwise
would ensue.

II. It follows, that in consequence of this Right or Privi-
lege, the Possessors thereof must have a legal Remedy to
assert and maintain it.

It was said, that there are many Rights for which a
Man has no Remedy by the Common Law, as in case of a
Legacy given, if it be not paid, the Party cannot bring an
Action for it. This is very true, but not applicable to the
present Purpose; for the Constitution of the English Go-
vernment has wisely distributed to several Courts, the Deter-
mination of proper Causes, but has left no Subject, in any
case where he is injured, without an adequate Remedy, if
he will go to the right Place for it; if a Man will seek for
a Remedy at Common Law, for a Legacy, which by our
Constitution is to be recovered in the Ecclesiastical Court, it
is his own Fault if he do not recover; as it would be, if he
should begin a Suit for Land in the Court of Admiralty, or
go for Equity to the Common-Pleas.

He who loses or quits his Remedy, loses his Right: If a
Man has a Bond for Payment of 1000*l.* he has no Remedy
to

to recover this Money but by Action: Therefore, if he re-^{Anno 3 Anne,}
 leases all Actions, he loses Right to the Money, because he
 has given away the Means to recover it, *Coke's 6th Rep.* 58.
Bridman's Case. If a Man purchases an Advowson, and at
 the next Avoidance suffers an Usurpation, and brings not
 the *Quare impedit* in time; he hath lost all manner of Re-
 medy, and in consequence his Right, to which neither he nor
 his Heirs can ever be restored. Wou'd it not look very
 strange in a Constitution so formed, that the Commons of
 England have an undoubted Share in the legislative Authority,
 which is to be exercised by their Representatives chosen by
 themselves, in which every Freeholder, of forty Shillings
^{per Annum}, hath a Right to vote for the County, every Citi-
 zen for a City, and every Burgess for a Borough: That, if
 the Sheriff, or other Officer, who is to cause the Election to
 be duly made, shall hinder or deprive any of those Electors
 of his Right, the Person injured shall have no Remedy, tho'
 the Injury be done to such a Right, upon the Security whereof
 the Lives, Liberty, and Property of all the People of Eng-
 land so much depend.

That the Defendants, in this Case, by hindering the Plaintiff from voting, have done ill, cannot be denied; because they have excluded one who has a Right from his vote. Then, if the Law doth not allow an Action to the Party injured, it tolerates the Injury, which is absurd to say is tolerable in any Government.

There was much Weight laid upon the Case of *Ford* and *Hoffins*, 2 *Cro.* 388, Mo. 142, which is, that where, by the Custom of the Manor, every Tenant for Life might name his Successor for his Life; whom the Lord is to admit; if one be named, and the Lord refuses to admit him, it was held, an Action on the Case would not lie; because the Nominee had no Right without being admitted. But the Reason given for that Opinion shews it has no Relation to this Case, for the Plaintiff's Right of voting is vested in him, without any previous Admittance, therefore tho' it shou'd be Law, that no Action will lie for not giving a Right, yet certainly an Action must lie, for defrauding and hindering a Man to enjoy a Right that he hath.

When any Statute requires an Act to be done for the Benefit of another, or to forbear the doing of an Act, which may be to his Injury, tho' no Action be given in express Terms by that Statute, for the Omission or Commission, the general Rule of Law, in all such Cases, is, that the Party injured shall have an Action, *Coke 10, Rep.* 75. The Case of the *Marbalsea*, 12 *Rep.* 100, *Co. Mag. Car.* 118. This is a Maxim allowed and approved of in all Ages.

Anno 3 Annæ,
1704.

There is the same Reason where the common Law gives a Right, or prohibits doing a Wrong: But in this Case an Act of Parliament is not wanting, for the Statute of *West.* 1 cap. 5, enacts, That Elections shall be free; if he who hath a Right to vote be hindered by him who is to take his Vote, or to manage the Election, that Election is not free, such an Impediment is a manifest Violation of that Statute, as well as an Injury to the Party whose Vote is refused. This Statute of *West.* 1. shews what Opinion the King and Parliament had, of the great Consequence it was to the whole Realm, that People should have their Freedom in choice; and though the Common Law was the same before, as appears even by the Statute itself, the Words whereof are, Elections ought to be free; yet it was judged necessary to add the Sanction of an Act of Parliament thereunto; The King commandeth, upon great Forfeiture, that no great Man, or other, by Force of Arms, or by Malice, or Menaces, shall disturb any to make free Election. The Defendants did not, by Force of Arms, drive the Plaintiff away from the Election, nor by Menaces deter him, but they did maliciously hinder him (so it is charged by the Plaintiff in the Declaration, and it is found by the Jury to be done by Fraud and Malice) and so the Defendants are Offenders within the very Words of the Statute of *West.* 1. Where the Law is so clear as to the Right, and the Duty so strictly enjoined by Act of Parliament to be observed, it seems a great Presumption to make it but a light Thing.

It being apparent that the Plaintiff had a Right, and that the Defendants have done him Wrong, and that by Consequence of Law he must have some Remedy to vindicate his Right, and to repair the Wrong.

III. The third Thing to be shewn is, that the Remedy the Plaintiff pursued by bringing this Action, is the proper Remedy allowed by the antient Law of England.

This Action is that which is called in the Law, an Action upon the Case; that is, founded upon the particular Case of the Party injured.

The Law, in all Cases of Wrong and Injury, hath provided proper and adequate Remedies.

1. When a Man is injured in his Person, by being beaten or wounded, the Law gives him an Action of Trespass, Assau't and Battery; if by being imprisoned, an Action of false Imprisonment:

2. If his Goods be taken away, or Trespass done unto his House or Lands, an Action of Trespass lies to repair him in Damages.

3. If

3. If a Man hath a Franchise, and is hindered in the Enjoyment thereof, the proper Remedy is an Action upon the Case. 1704.

The Plaintiff, in this Case, hath a Privilege and a Franchise, and the Defendants have disturbed him in the Enjoyment thereof, in the most essential Part, which is the Right of voting.

4. Where any Officer or Minister of Justice, entrusted with the Execution of the Process of Law, does an Injury, an Action of the Case lies against him. If the Sheriff will not execute a Writ by arresting the Party-Defendant, or taking his Goods, the Plaintiff shall have his Action upon the Case, because he refused to do his Duty, to the Plaintiff's Damage.

The Precept which the Defendants received from the Sheriff in this Case, was founded upon the King's Writ: And the Defendants are commanded, to cause two Burgesses to be elected for the Borough of *Aylesbury*, of which they are to give notice, and to admit every one who hath a Vote to make Use of it; if they refuse any Man to vote who hath a Right, they act contrary to the Duty of their Office.

It was objected, that it did not appear that the Persons for whom the Plaintiff voted, were elected, nor that they would have been elected if his Vote had been admitted.

The Answer is, That it is not material whether the Person for whom the Plaintiff voted was chosen, if his Vote had been taken; his Right and Privilege is to give his Suffrage, to be a Party in the Election; if he be excluded from it, he is wronged, tho' the Persons for whom he would have given his Vote were elected.

The Right of Action must accrue upon the Refusal of the Vote, and is never to be made better or worse by the Return, which is a Matter *ex post facto*.

It was said in the arguing this Case, that the Plaintiff had no Damage; or at least, that there was no such Injury or Damage done to him as would support an Action.

The Answer to that is, that the Law will never imagine any such thing as *injuria sine damno*. Every Injury imports Damage in the Nature of it. If a Man pick a Lock, and come into an House without the Consent of the Owner, perhaps there is no pecuniary Damage done to the Value of a Farthing; yet the Owner shall have an Action against him, and recover Damages for the Invasion of his Possession and Property. There are many Cases of the same nature, which have been determined upon this ground. In the Case between *Starling* and *Turner*, 24 Car. II. in *con. Ban.* (see *Vitris* first Part, Page 206.) and afterwards in *Ban. Reg.*

Anno 3 Anne,

1704.

The Plaintiff *Turner*, amongst others, stood to be one of the Bridge-Masters of *London Bridge*, which Officer is to be elected by a Common Hall of the City of *London*: The Question was, Who had the greatest Number of Voices? The Plaintiff demanded the Poll; and the Defendant, being then Lord-Mayor of *London*, refused it: It was adjudged, that the Action was maintainable for refusing the Poll; because every Candidate has a Right to have; and tho' perhaps if the Poll had been granted to the Plaintiff in that Action, it might have been against him, yet the Denial of that Right was a good Ground of Action. Upon the same Reason, the Case 29 *Ed. III.* 18. was determined; and also the Case of *Hunt and Dowman*, 2 *Car.* 478. 2 *Rolls* 21.

It is apparent by what has been said, that the Plaintiff in this present Case hath been injured, in being denied his Right; and no good Reason can be assigned that so affects this Case, as to make it differ from other Cases; tho' to that Purpose several Matters were urged and insisted upon. As first, that this would be the Occasion of many Actions.

If that be so, there is the greater Reason to support this Action, to punish the many Wrongs that have been done, which will prevent any more of the like nature. If Offences multiply, Remedies against them ought to be advanced. If other Officers of Boroughs have been, or shall be guilty of the like Misfeasances, as these Defendants have been, it is fit they should be liable, as these Defendants are, to make Satisfaction. If one Man be beat and imprisoned, is it any Objection against his having an Action, because all others who shall be as ill treated as he hath been, shall have the like Remedies? The only means to hinder Corruptions, that will soon become frequent among those Officers of Boroughs and Corporations, is, to let them see that they are obnoxious to the Law, and that their Purses must make Satisfaction to all whom they shall injure in this manner. It is true, if one Act which tends to the Injury of many Persons be committed, no one Person injured shall be allowed to have an Action, because the rest might have the same. *Co. 5. Rep. 72. William's Case, 3 Cr. 664. Pineux ver' Hovenden*; as the Case of not saying Divine Service in a Chapel of a Minor, to the Lord and Tenants; or for stopping of a Lane or common Way, because the Defendant, for one Act, would have a Multitude of Suits against him, the Injury alike affecting a Multitude: But the Refusal of every Vote is a distinct Act: The Party grieved, whose Vote was denied, can only bring an Action for the Refusal; the others whose Votes were admitted are not concerned. And if an Officer denies an hundred, who have a Right, these are a hundred several

several Wrongs, for which he ought to be liable to as many Anno 3 Anne,
several Actions. As if a Man will make it his Business to
sing Stones, and shall hit a hundred several Men, he must
make Satisfaction to them all: But surely this is so far from
being an Objection, that it is a strong Argument to support
the Action: For if the Mayor or Bailiff of a Borough shall
have Liberty to refuse Men who have Votes, he can easily
make a Majority to vote on his Side; and then, what will
become of Elections? The Officer will return him that is
elected by a Majority of his own making, by excluding the
Votes of others that have Right.

This would encourage Officers to be partial and corrupt,
and to return divers Persons elected in that manner, who at
least must have Possession of Seats in the House of Commons
for some time, and giye Voices in the making Laws, and
imposing of Taxes, until the Right of Election be determin-
ed. And though, upon hearing the Cause in the House of
Commons, this Matter may be set right at last; yet, what
can compensate for the Mischief that may be done to the
Kingdom in the mean time, by the Votes of those who shall
be particularly returned, and are not the Representatives of
the People of the Place who are to chuse them,

Besides, the beforemention'd Rules against multiplying
Actions, is confined to such A&ts where there is another Re-
medy to be had: but where there is no other Remedy but
an Action, the Wrong-doer must answer to so many several
Actions as there are Persons injured. Suppose a Man will
plough up the Ground in which a hundred Persons haye a
Common, he must answer all their Actions. If the Inhabit-
ants of a Town have a common Watering-place, and a Stran-
ger stops the Current, whereby the Water is diverted, every
Inhabitant shall have his Action, because there is no other
Remedy.

The injured Plaintiff, in this Case, has no other Remedy
besides this Action; no Indictment lies, because it is a per-
sonal Wrong to the Party, and not Wrong to the Public, but
only in the Consequence of it, as an evil Example, which
tends to the Encouragement of other such Officers to commit
the like Transgressions; nor is there any Danger to an honest
Officer, that means to do his Duty; for where there is a real
Doubt touching the Parties Right of voting, and the Officer
makes use of the best means to be informed; and it is plain
his Mistake arose from the Difficulty of the Case, and not from
any malicious or partial Design, no Jury will find an Officer
guilty in such a Case, nor can any Court direct them to do
it; for it is the Fraud and the Malice that entitles the Party
to the Action: In this Case, the Defendants knew the Plain-

anno 3 Anne, 1704. tis to be a Burgess, and yet fraudulently and maliciously hindered him from his Right of voting; and Justice must require, that such an obstinate and unjust ministerial Officer should not escape with Indemnity.

That the Officer is only ministerial in this Case, and not a Judge, nor acting in a judicial Capacity, is most plain; his Business is only to execute the Precept, to assemble the Electors to make the Election, by receiving their Votes, computing their Numbers, declaring the Election, and returning the Persons elected: The Sheriff or other Officer of a Borough, is put to no Difficulty in this Case, but what is absolutely necessary in all Cases. If an Execution be against a Man's Goods, the Sheriff must at his Peril take notice what Goods a Man has.

Another Objection was made in respect to the Novelty of the Action; it was said, never any such Action was brought.

In Answer to this Objection, it may be said, that probably there have been many Occasions given for bringing such Suits. It is to be hoped, that very few have ever been so presumptuous, as to make an obstinate and malicious Refusal of an undisputed Vote. If the Case has happened before, perhaps the Party, out of consideration that only small Damages were to be expected, might be discouraged, and think it better to acquiesce. And it is probable, the ill-designing Officer would be at least so cautious, as to refuse the Votes of such Persons only, as he thought, by Reason of the Meanness of their Circumstances, were unable to vindicate their Right. It is not every one that has such a true English Spirit as the Plaintiff, who could not sit down meanly under a Wrong done to him, in one of the most valuable Privileges of an Englishman. It is not the Novelty of the Action that can be urged against it, if it can be supported by the old Grounds and Principles of Law: The Ground of Law is plain, certain, and universal, that where any Man is injured in his Right, by being either hindered in, or deprived of the Enjoyment thereof, the Law gives him an Action to repair himself.

The Case of *Hunt and Dowman*, which was, 16 Jac. I. Ann. Dom. 1618. of an Action by the Landlord against the Tenant, for hindering him from searching his House to see whether it was in Repair, was never brought before that Time: And that of *Turner and Starling* was not brought till 23 Car. II.

The Law of England is not confined to particular Precedents and Cases, but consists in the Reason of them; which is much more extensive than the Circumstance of this or that Case: *Ratio legis est anima legis; & ubi eadem ratio, ibi idem ius*, are known Maxims.

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An Action against the Master of a Ship, for that the Ship, Anno 3 Anne, lying in the River of Thames, was robbed, was maintained upon the same Reason as against a common Carrier ; yet, such an Action was never known until 23 Car. II. in the Case of *Moss and Slue*. 1 Car. 15. *Jones* 93. *Palmer* 313. *Smith and Cranshaw* ; an Action of the Case was brought for maliciously, and, without any probable Cause, indicting the Plaintiff of High Treason : This was the first Action that was ever brought in such a Case ; and yet it was adjudged maintainable, upon the same Reason as upon a malicious Indictment of Felony, 2 *Levinz* 250. *Heming and Beal* ; an Action of the Case was brought against the Mayor of a Town, for refusing the Plaintiff to give his Vote at the Choice of a new Mayor : And there was not any Scruple made, but that the Action did well lie, tho' that was the first Precedent.

It is granted, that if a Freeman, who hath a Right to give his Vote for the Choice of a Mayor, be denied his Vote, he may maintain an Action upon the Case.

There can be no Difference between that Case and this, unless it can be supposed that the Right to vote at the Election of a Mayor, is of a higher Estimation in the Eye of the Law, than a Right to chose Members to serve in the high Court of Parliament.

This Action is not only founded upon the Reason of the Common Law, but it hath the Sanction of an Act of Parliament, *viz.* the Statute of *Weft*. 2 cap. 24. which says, ' That whosoever, from thenceforth, it shall fortune in Chancery, that in one Case a Writ is found, and in a like Case falling under like Right, and wanting like Remedy, none is found, the Clerk of the Chancery shall agree in making a Writ, and by Consent of Men learned in the Law, a Writ shall be made, lest it should happen hereafter, that the King's Court might fail in ministering Justice to Complainants.

The Objection most insisted on was, that this is a Matter relating to Parliaments, and ought to be determined by the Law and Custom of Parliaments ; and for that Reason is not cognizable in the Queen's Courts.

In Answer to this Objection, it was shewed, first, that this Case is proper in the Nature of it, to be determined in the Queen's Court.

2. There is no other Provision made for the Plaintiff, who is highly injured in his Right, but by bringing his Action in the Courts of Law, that have Power to determine of Mens Lives, Liberties and Properties.

First,

Anno 3 Annas, First, the Case in the Nature of it is proper for the Queen's Courts. This will be apparent, if the several Rights of electing Members to serve in the House of Commons be considered.

The Right of chusing Knights of the Shire is founded upon the Electors Freehold. Matters of Freehold are determinable originally and primarily in the Queen's Court; by the Rules and Methods of the Common Law, by a Jury sworn, and by the Evidence of Witneses upon Oath: And, as the Right of the Freehold is determinable there, so are all Benefits, Rights and Advantages depending thereupon, or belonging thereto.

If a Freeholder's Voice be refused by a Sheriff, what is it should hinder the Queen's Court from trying and determining this Matter, like all other Questions of Freehold, by a Jury, upon the Oaths of Witneses, or Evidence in Writing, whether the Plaintiff that supposes himself wronged was a Freeholder, or not?

The Right of chusing Citizens and Burgeses depends either upon Prescription or Custom, or upon Letters-patents; these are also primarily and originally cognizable by the Queen's Courts: Customs and Prescriptions are triable by the Country, that is, by a Jury of twelve Men of that Country, where the Custom is alledged to be: This is a Known Law in all Cases, without Exception.

And, as to Letters-patents, if pleaded specially, the Court must judge of them; and, if either Party conceives the Court hath judged amiss, he hath his Remedy by Writ of Error, till at last it comes where it will receive a final Judgment. So that every Right which an Elector can have, is proper for the Determination of the Queen's Court. There are various Ways of Election in different Boroughs, but they all depend upon Charters or Customs; and therefore are not more difficult to determine, than other Franchises or Liberties which depend upon the same Foundations.

And, whereas it was said, that by a late Act of Parliament in the 7 and 8 Will. III. the last Determination of the House of Commons concerning the Right of Elections, is to be pursued; it amounts to no more than this, that the Officer who is to make the Return is to take care to return him to be elected, who is chosen by a Majority of Electors, qualified according to the last Determination of the House of Commons; if he does so, he incurs no Danger, he is not liable to an Action, but the House of Commons itself is not bound by that Rule. Now, suppose the Officer will deny a Man a Vote, who, according to the last Determination there, ought to have one; and this the Officer did well

now,

know, what is it hinders him that had Right, according to Anno 3 Anne, that Determination, from bringing his Action against the Officer who hath injured him? It cannot be the Act of Parliament, for the Queen's Courts are by Law the first and original Expounders of the Statutes of this Realm.

But, secondly, there is no other Court of Jurisdiction appointed by the Law of England, for determining the Right, and repairing this Injury, but the Courts of Westminster.

It is a general Rule, that whoever impeaches the Jurisdiction of one Court, must entitle some other Court to have a Jurisdiction of that Cause; but that is impossible to be done in this Case.

It was said, that the Determination of the Right of Elections of Members to serve in Parliament, is the proper Business of the House of Commons, which they always would be very jealous of; and this Jurisdiction of theirs is so uncontested, that they exercise a great Power in that Matter; for they oblige the Officer to alter his Return according to their Judgment; and affirm that they cannot judge of the Right of Election, without determining the Right of the Electors; and if Electors were at liberty to prosecute Suits touching their Right of giving Voices, in other Courts, there might be different Judgments, which would make Confusion, and be dishonourable to the House of Commons, and that therefore such an Action was a Breach of their Privilege.

As to these Objections, several Answers were given.

It was admitted, that the House of Commons exercise a Jurisdiction, in determining the Right of Election of their own Members; and though the time may be assigned, when that Jurisdiction was exercised in another Place, yet there has been a Usage long enough to hinder that Point from being drawn in Question, especially after the Sanction given to it, by the Act made in the seventh Year of King William's Reign.

But though it be true, that the Merit of the Election of a Member, be a proper Subject for the House of Commons to judge of, because they only can give the proper and most effectual Remedy, by excluding the Usurper, and giving Possession of the Place to him who has the Right; yet there is a great Difference between the Right of the Electors, and the Right of the Elected; the one is a temporary Right to a Place in Parliament, *pro hac vice*, the other is a Freehold, or a Franchise: Who has a Right to sit in the House of Commons may be properly cognizable there; but who has a Right to chuse, is a Matter originally established, even before there is a Parliament: A Man has Right to his Freehold by the Common Law, and the Law having annexed his Right

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of voting to his Freehold, it is of the Nature of his Freehold, and must depend upon it. The same Law that gives him his Right, must defend it for him, and any other Power that will pretend to take away the Freehold, upon which it depends.

To say the Plaintiff, in this Case, may apply to the House of Commons, is not sufficient, unless proved; never any single Elector of any Country or Borough, did complain to the House of Commons, that he was debarred of his Vote, and desire them to determine his particular Right. Sometimes, some of those who have Right to chuse in a Borough have complained, that Persons have been returned by the Officer, who were not duly elected, as being an Injury done to the whole Community of the Borough, to have a Person without Right fit there as their Representative: But this is only to bring the Merits of the Election in question, of which that House hath Cognizance, and therefore, as incident and necessary thereto, they may try the Right of Electors, which of them, by Custom, or Letters Patents, have Voices; but this is no more than all Courts have. In the Ecclesiastical Courts, which proceed according to the Civil Law, if the Suit be originally proper for their Jurisdiction, they have Power to determine Things foreign thereto, as if Letters Patents, or Conveyances of Lands come in question, though primarily and originally determinable in the Courts of Common Law. Matrimony is properly under the Jurisdiction of the Ecclesiastical Court, and if a Question arises between the supposed married Parties in their Life-time, or upon Dower, or Bastardy, it shall be tried and determined there: But when an Action is brought by a Man and Woman, supposing her to be his Wife, if the Defendant pleads in Abatement, that they were not married, it shall be tried by a Jury where the Action was brought; so if any one's Title to Lands depends on a Marriage, if an Action be brought to try the Title, the Marriage may be determined by a Jury. This shews plainly, that because the House of Commons may determine who are Electors, and who are not, incidently, and so far only as it is necessary to try the Right of the Election, it doth not follow, that when the Right of Election is not in question, they can try the Right of an Elector.

When the Right of the Candidate is examined in the House of Commons, it is in order to determine which Person hath the Right to join with them in the making of Laws, and other public Services; and if, in order to the determining this Point, the House of Commons must judge of the Electors, they do it only to this Purpose. But the Courts of Law judge of an Elector's Right wholly to another End,

as

as it is a Right, to assert that, and to repair in Damages Anno 3 Anne,
the Elector who is wrongfully hindered from exercising it. 1704.
This is what the House of Commons cannot do, nor to this
Day was there ever any Application made to do it, and it
may reasonably be supposed they will not now begin to take
it upon them.

It commonly takes up a great Part of the Time of a Session, to determine the Cases of Elections, before they can be sure the House is composed of such as have a Right to sit; it should they once pretend to take Cognizance of particular Mens Complaints, in order to decide the Rights of Electors, it would be impossible for them to have any Leisure to employ themselves about the *ardua & urgentia negotia regni*, the Safety and Defence of the Kingdom, for which the Writ calls them together. It is granted, that the deciding of the Right of Electors is a Matter of great Weight, and, in consequence, concerns the Lives and Liberties of the Subjects of *England*, but the Law hath provided a proper Remedy to be pursued in the ordinary Methods of Justice, a Remedy that is adequate, where Damages may be recovered. The Plaintiff, in this Case, knew he had a Right by Law to give his Vote, and when he found himself deprived of it, he resorts to the Law for his Remedy: And it is probable, most of the Electors of *England* will be of his Mind, and think it for their Interest to resort to the Courts of *Westminster-Hall*, for asserting this great Right of theirs upon Occasion, where they may prove their Case by Witnesses upon Oath, and have their Damages assessed by their Countrymen duly sworn, nothing of which can be done, if they are to seek for a Remedy in the House of Commons.

Where a Man is injured, if he cannot bring his Action to recover the Thing itself he hath lost by the Injury, the Law will always give him Damages in lieu thereof.

It was said in the Debate of this Case, that Instances were to be given, where the Party injured did not recover Damages, as in case where one has a Right of Presentation, and is disturbed, he could not recover Damages at the Common Law, and that was resembled to the Right of an Elector, which was said to be only a Right of Nomination. But the Answer to this Objection is plain; there the Law gives the Party a Ready to recover the Presentation, the Thing that was taken from him, to which he is restored by the Judgment; but, in the present Case, there is no Possibility for the Plaintiff to recover the Thing he has lost, which was his Vote at the Election, for that Election is over, and can never be had again, so that the Plaintiff cannot possibly have any Reparation, unless it be in Damages, and this Sort of Reparation the House of Commons cannot give him.

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If the Plaintiff, and all other injured Electors, should be obliged to go to the House of Commons for Satisfaction, it may be reasonably supposed, that the Parliament may be dissolved before it could come to his turn to have his Cause heard: What would be the Consequence of this? If the Plaintiff must be thereby without Remedy, would not the Law be notoriously defective; and yet none will say, that another Parliament did ever take Cognizance of any Injury done, upon account of an Election, to a preceding Parliament? But, suppose the next House of Commons will determine it, what endless Work would the House of Commons be engaged in? for, probably, the ensuing Election would make as many new Questions as that which went before, and which the Parliament did not live long enough to dispatch.

As to what was objected, that the same Matter may come in question in the House of Commons, where it may be determined, that the Plaintiff hath no Right; so that great Confusion would arise from different Judgments in different Courts; it is no more than what may happen every Day in *Westminster Hall*, where the several Courts may be of various Opinions upon the same Question, and yet no Hurt is done to the Public; nay, this is no more than happens often in the House of Commons, where the Right of Election in the same Borough is decided different Ways in different Parliaments, and they do not think themselves dishonoured by it.

This Contrariety of Judgment can never appear, for the House of Commons never gives a direct Judgment, on this or that individual Elector's Right; the voting is either upon a general Question of the Competitors, or where the Right of Election in the Borough is placed, whether all Inhabitants, or those under a particular Qualification, or whether the whole Commonalty, or a selected Number, have Voices, and all these are but Ways and Means to determine the Right of Election.

If the House of Commons judge of a particular Elector at any time, it is only *pro iusta vice*, so far as it relates to the particular Case before them; but surely the House never thought the Electors Freehold finally concluded thereby, because he is no Party to that Suit, his Right came not there in question originally, but consequently, in a Cause litigated between other Persons, to which he is no Party; and it cannot be agreeable to right Reason, or the Principles of Law, for a Man's Right to be conclusively determined, in a Cause between other Parties.

And, after all, where is the Damage to the Public, if there should be a Variety in the Determination of the House

of Commons, and the Courts of *Westminster*? It is not im- *Anno 3 Anne,*
possible, in the nature of things; for the Courts of Law have *1704.*
great Advantages, which the House of Commons want; they
want the Help of Juries, and the Power of giving Oaths,
and they ought not to be displeased with their Electors, if
they resort to Courts provided with these Powers, for assert-
ing their Right of Election, especially when it is considered,
that the Person, whose Pretensions the House of Commons
approves of, will sit there, which is all they are concerned
in: They are the Elected; and it would be strange, if that
should entitle them to challenge the sole Power of deciding
the Rights of their Electors; which is, indeed, to chuse their
Electors.

It was urged as a great Argument against the maintaining
this Action, that it had been adjudged, in the Case of
Mr. Onslow, in the 33d Year of King *Charles II.* (second
Yest. 37.) that no Action did lie at Common Law for a
false Return of a Member to sit in Parliament; and that in
the Case of *Barnardiston and Seame*, it was adjudged the
Candidate could not maintain an Action against the Sheriff
for a double Return; and if the Person elected to serve in
Parliament cannot maintain an Action against the Officer,
it was urged *a fortiori*, that the Person electing, who, per-
haps, is but a Cobler, ought not to be allowed to have
such an Action.

It was answered, that the Law of *England* has no Respect
to Persons: If an Elector be a Cobler, he is a Freeman of
England, and has that great Privilege belonging to him, to
be represented in Parliament. It was remembered with what
Variety of Opinion among the Judges, that Case of *Sir Samuel*
Barnardiston was determined, and what an Alarm that Judg-
ment gave to the House of Commons, to such a Degree,
that in the Session of Parliament 1679, a Committee was ap-
pointed to enquire into it, as a Grievance. And it was ob-
served, that the great Design of the A&T of Parliament made
in the seventh Year of the late King (which was often men-
tioned in the Debate of this Case to other Purposes) was to
cure the many Inconveniences arising from that Judgment,
and the Judgment in *Mr. Onslow's* Case; which only follow-
ed *Barnardiston's*, and was judged upon the Authority of it.
But there is no Resemblance between those Cases and the
Case of an Elector. In *Barnardiston's* Case of a double
Return of Members, the Reason on which the Judgment was
founded, was, that a double Return was no Return which the
Law took notice of, but was only allowed of by the Custom
of Parliament. When an Officer, who doubts, makes a
double Return, he submits to the Judgment of the House
of

anno 3 Annz, of Commons ; and, if that House admits of such a Return, as they had often done, it would be hard the Law should subject a Man to an Action, for submitting a Matter of Fact, (the Truth of which the Officer doubts) to the Determination of those who have a Jurisdiction of the Matter, and approve the Manner of such a Return.

In the other Case of a false Return of a Member, several Reasons may be assigned for the Judgment, which are not applicable to the Case of an Elector ; perhaps it might be because such a Return is a manifest Injury to every one of the Electors (tho' principally to the Candidate) and therefore it might fall within the Reason of *William's Case* above-mentioned, that every Elector might sue him ; and therefore none of them severally can maintain the Action. But there is another Reason very obvious, because the Candidate has a proper Remedy to recover his Place, from which he is excluded by the false Return ; the Right of Election is cognizable in the House of Commons, there he will recover his Seat in Parliament, which is what the Law has the principal Regard to, and there is no Reason he should have another Remedy elsewhere.

It is absurd to say, the Electors Right of chusing is founded upon the Law and Custom of Parliament ; it is an original Right, part of the Constitution of the Kingdom, as much as a Parliament is, and from whence the Persons elected to serve in Parliament do derive their Authority, and can have no other, but that which is given to them by those that have the original Right to chuse them ; this doth not touch the Jurisdiction claimed and exercised by the House of Commons, to try the Right of the Election of their own Members ; they who pretend to be admitted to sit there, ought to make out their Right to the House ; but there is no ground to infer from thence, that the House hath Power to try or determine the Right of other Persons, who are not their Members, and do not pretend to any Place amongst them.

It was said, that if this Action were allowed, there would be a way found out for the Lords to let themselves into, to judge of the Right of the Members of the House of Commons to sit there, and by parity of Reason to judge of their own Privileges, as if Actions were brought for Words spoken in the House of Commons, or other things happening in that House ; which would be of ill Consequence.

But it was said in the first Place, that this Objection was little applicable to the present Case, but it has no relation to the fitting of that Member, for whom the Elector who brings his Action gave his Vote.

And, secondly, if things are so ordered by the Constitution, of the English Government, that the ultimate Resort in point

of Judicature is lodged with the Lords, let the Case concern *Anno 3 Anne,*
 what it will, when it is brought before them by Writ of Error, they are bound to give Judgment one way or other; and as to the particular Instance mentioned, relating to Words spoken in the House of Commons, it was said, there never was a greater Attempt made upon Liberty of Speech in the House of Commons, than by the Information brought in the *King's-Bench*, 5 *Car. I* against Sir *John Elliot*, *Denzil Holles*, and *Benjamin Valentine*, Esqrs; for Words spoke in the House of Commons; they pleaded to the Jurisdiction of the Court, as being for what was done in Parliament, and therefore ought not to be examined or punished elsewhere; but Judgment was given against them, and great Fines imposed upon them (*Car. 181.*) In the Parliament, which met in 1640, these Proceedings were taken into Consideration with great Warmth, and the 8th of *July*, 1641, it was resolved in the House of Commons, that the exhibiting of that Information was a Breach of the Privilege of Parliament; and that the over-ruling of the Plea to the Jurisdiction of the Court, and the Judgment, and all that followed thereupon, was against the Law and Privilege of Parliament, and many other severe Votes were passed. Thus the Matter rested till after the Restoration of King *Charles II*; but when things grew to be settled, and there was leisure to consider the Consequences of former Proceedings, the House of Commons began to think, that those Votes were not to be depended upon as a sufficient Security, in a Case of so high a nature, since upon Liberty of Speech all Parliamentary Debates were founded; and they could not think that great Privilege safe while so solemn a Judgment stood in Force. Therefore, in 1667, the Consideration of this Matter took up a great Part of the Session, and the best Expedient they could find out was, first, to come to a Resolution among themselves, that the Judgment given, 5. *Car. I.* in that Case, was an illegal Judgment, and against the Freedom and Privilege of Parliament; and then to present this Resolution of theirs to the Lords at a Conference, which was done *December* the 10th, 1667, and to desire their Concurrence. The next Day the Lords concurred in the Resolution, and at the same time (which was a Thing aimed at and desired by the House of Commons) the Lords ordered the Lord *Holles* to bring a Writ of Error in Parliament, to the end there might be a judicial Determination of that great Point, which was done accordingly; and on the 15th of *April*, 1668, that Cause coming to be heard in Parliament, the Judgment in the *King's-Bench* was reversed, to the great Satisfaction of the House of Commons.

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So little did the House of Commons entertain Jealousies of this kind, that they themselves resorted to the Judicature of the Lords, in the manner that has been mentioned, upon so weighty an Occasion.

It was objected, that many Inconveniences would follow, if this Action were allowed; but they were very sparing in giving particular Instances of those Inconveniences.

But nothing is plainer, than that by the Plaintiff's prevailing in this Action great Inconveniences will be prevented, and the Subjects Right and Property secured against the Partialities and Corruption of Officers, who are trusted in a Matter of so great Moment, as the receiving and allowing their Suffrages upon Elections.

This tends to encounter false Returns in the first Approach, and to have just Returns is all the House of Commons ought to desire.

How endless would the Inconveniences be, if this Action did not lie? How would Occasions of Complaint be multiplied? The Officers who had the Return would become the Masters of Elections, and admit and reject Electors as they pleased with Impunity; for if the Electors are only to seek for a Remedy before the House of Commons, it would be a Remedy worse than the Disease; the greatest Part of their Cases would never be determined for want of Time; and they who could get their Cases heard, could have no Amends, that is, no Damages given them for reparation of the Wrong, besides the Absurdity of having, for the most part, the Parties to the Injury, those who sit by a false Return, Parties to the Judgment.

So that to deny this Action, is to deny the Benefit of the Law in a Matter of the most tender Concern to an Englishman.

To pretend it to be a Breach of Privilege of the House of Commons, for an Elector to seek for Remedy at Law, if he be wrongfully excluded of his Vote, is very strange.

That certainly can never be esteemed a Privilege of Parliament, that is incompatible with the Rights of the People. Every Englishman is entitled to Reparation for the Injuries done to his Rights and Franchises, in the ordinary and common Methods of Justice, where the Juries who try, and the Witnesses who give Evidence, are to be upon their Oaths. *Magna Charta, cap. 29,* is very express. No Freeman shall be dispossessed of his Freehold, or Liberties, or free Customs, unless by the lawful Judgment of his Peers, or by the Law of the Land.

By the lawful Judgment of the Peers, in the case of a Commoner, is meant, by a Jury of lawful Men upon their Oaths.

If one be injured in such a manner as the Plaintiff in this *Anno 3 Anne,*
 Action hath been, no Man can say that *per legem terræ*, by
 the Law of the Land, he can have a Remedy for Satisfaction, and asserting his Right in the House of Commons; if
 there be any such Law, it must be either Statute Law, or
 Common Law. No Statute gives him such a Remedy, nor
 doth the Common Law, because that is constant Usage for
 Time immemorial; and there is not one Precedent can
 be produced, that ever any Man, upon such an Occasion,
 did ever apply to the House of Commons for Relief.

Upon the 14th Day of January, 1703, the House of
 Lords reversed the Judgment, and gave Judgment, that the
 Plaintiff should recover.

This State of the Case being read and approved of, the
 House came to the following Resolutions, *viz.*

‘ It is resolved by the Lords spiritual and temporal in Parliament assembled, that by the known Laws of this Kingdom, every Freeholder, or other Person, having a Right to give his Vote at the Election of Members to serve in Parliament, and being wilfully denied or hindered so to do by the Officer who ought to receive the same, may maintain an Action in the Queen’s Courts against such Officer, to assert his Right, and recover Damages for the Injury.

‘ It is resolved by the Lords spiritual and temporal in Parliament assembled, that the asserting, that a Person having a Right to give his Vote at an Election, and being hindered so to do by the Officer, who ought to take the same, is without Remedy for such Wrong by the ordinary Course of Law, is destructive of the Property of the Subject, against the Freedom of Elections, and manifestly tends to encourage Corruption and Partiality in Officers, who are to make Returns to Parliament, and to subject the Freeholders and other Electors, to their arbitrary Will and Pleasure.

‘ It is resolved by the Lords spiritual and temporal in Parliament assembled, that the declaring *Matthew Ayleby* guilty of a Breach of Privilege of the House of Commons, for prosecuting an Action against the Constables of *Aylebury*, for not receiving his Vote at an Election, after he had, in the known and proper Methods of Law, obtained a Judgment in Parliament for Recovery of his Damages, is an unprecedented Attempt upon the Judicature of Parliament, and is in effect to subject the Law of *England* to the Votes of the House of Commons.

‘ It is resolved by the Lords spiritual and temporal in Parliament assembled, that the deterring Electors from prosecuting Actions in the ordinary Course of Law, where they are deprived of their Right of voting, and terrifying Attorneys,

Anno 3 Anne, 1704.  Solicitors, Counsellors, and Serjeants at Law, from soliciting prosecuting, and pleading in such Cases, by voting their doing to be a Breach of Privilege of the House of Commons, is a manifest assuming a Power to controul the Law, to hinder the Course of Justice, and subject the Property of Englishmen, to the arbitrary Votes of the House of Commons.'

The Lords Representation to the Queen.

March the 28th, The Lords presented their * second Representation to the Queen against the Commons, which was conceived as follows :

May it please your most Excellent Majesty,

WE, the Lords spiritual and temporal in Parliament assembled, found ourselves obliged (tho' with great Unwillingness) to make an humble Representation to your Majesty, on the 18th of January last, of the Injustice done to us by the House of Commons, and it is with the utmost Reluctancy we are brought to give your Majesty a second Trouble upon the like unhappy Occasion. This appears by our Silence after the Address of the House of Commons presented to your Majesty the 21st of February ; for tho' that Paper be in effect but one continued Misrepresentation of our Words and our Proceedings, yet we thought ourselves secure in your Majesty's great Judgment, which would discern where the Truth lay, thro' all the Colours made use of to disguise it. And we were willing to hope, that a Moderation, which was so little deserved, could not but have a good Effect upon the House of Commons. But the Votes of the 29th of February, which they laid before your Majesty, have convinced us of our Mistake, and made it impossible for us to flatter ourselves longer with any such Expectation : They continue to misrepresent our Proceedings, and to solicit the Throne against us, and thereby put us upon an absolute Necessity of doing ourselves Justice, in laying a true State of Things before your Majesty. When we observe, that the first Address of the House of Commons, was ordered the next Day after we entered upon the Examination of Boucher ; that on the 3d of February, when we appointed a Day for taking the Papers relating to the Conspiracy into Consideration, the House of Commons appointed a Committee to draw up the Address against us, presented to your Majesty on the 21st, which was the Day our Committee reported Keith's Examination ; and that their Votes of the 29th came from a Committee appointed to consider of the Papers communicated to them, the same Day we made our Address to your Majesty, to issue out a Proclamation, for encouraging the Discovery of the Cypher of the gibberish Letters,

* Mentioned before, Page 71.

Letters, (tho' they had made a Compliment to your Majesty Anno 3 Anne^{1704.} or their reading those Papers, and had laid aside all Thoughts of them for three Weeks together) we cannot without great Concern reflect upon the Unseasonableness of these Applications; what can be more likely to prevent the Discovery of this dangerous Conspiracy, than a Disagreement among those who should unite their Endeavours in assisting your Majesty to search to the Bottom of it? What can more encourage Offenders to an obstinate Silence, than the Prospect of having the Examination interrupted by an unhappy Breach between the two Houses? And what can give greater Security to your Majesty's Enemies, than to see a Foundation laid for such Disputes, as will for ever put an End to all parliamentary Enquiries into their Designs? The Gentlemen of the House of Commons have carried this Point so far, that rather than suffer us to proceed quietly in searching into the Bottom of this dangerous Conspiracy, they do not only reflect on us, but depart from their Pretences of Respect to your Majesty, and censure your Conduct in assisting our Examination, as if you had thereby done an Injury to your Prerogative. We are therefore obliged, in Duty to your Majesty, as well as Justice to ourselves, farther to explain the Grounds on which we have acted, and to produce Precedents to shew, we have done nothing unwarranted by the Practice of our Ancestors.

We cannot but observe how the House of Commons have varied their Style; in their first Address they directly charged the Lords with wresting Prisoners out of your Majesty's Hands; in their second Paper, they say only, we seem to exclude your Majesty from any Power over the Prisoners; but the Charge is alike unjust in both.

They continue to complain of two of our Orders, one of which, they say, was to remove your Majesty's Prisoners out of your Custody into our own; and the other, to commit their Examination solely to a Committee of seven Lords chosen and appointed by ourselves.

We know not by whom a Committee of the Lords can be chosen, but by the House of Lords; nor can there be any thing more parliamentary, and more proper for the Dispatch and Secrecy of an Examination, than referring it to a Committee.

This was practised by both Houses of Parliament in the Year 1678, and 1679, nor was it objected to either, that they took the Examinations solely to themselves: Tho' the Committee of the House of Commons was, in the Style of their own Books, a Committee of Secrecy.

Anno 3 Anne, 1704. The Lords, the Commons, and the Privy-Council had that Plot under Examination at the same time, yet there were no interfering of Jurisdictions ; the Papers and the Witnesses were conveyed to one another as there was Occasion, without any Disputes ; none of them stopped or delayed the Enquiries of another, but concurred in promoting them.

We might have expected, that when the House of Commons charged us a second time with violating your Royal Prerogative, and the known Laws of the Land, they would have specified what Branch of the Prerogative we had infringed, or what Law, Statute or Usage, we had broken ; whenever they think fit to be more particular in the Charge, we shall be very ready with our Answers.

We shall always contend with the House of Commons in Zeal for your Majesty's Honour and Safety ; but we shall never pretend to be meritorious in giving up what we know to be the Right of Parliament : And we are sure your Majesty understands and loves the Constitution of the English Government too well, to approve of such a Present : And therefore we must again beg Leave to insist on our former Representation, as well founded in every Particular.

We have no Cause to be sorry to hear it has been so universally well received, since we are sure it cannot but be for your Majesty's Service, as well as a full Justification of ourselves. We were very careful that there should be no Harshness in any Expression of our Representation ; but if they complain of Reasoning they cannot answer, or are uneasy to hear Truths they cannot deny, it is not our Fault.

The House of Commons were certainly in the right, in not producing the Precedents, which they say they have, of ill Language that has passed between the two Houses, because it could not have been agreeable to your Majesty.

We must own we never searched our Book for that Purpose ; and we believe, that if ever the Commons used the like before, our Ancestors thought it unbecoming them to return it ; and we think it most proper to be forgotten.

We cannot think that any Expressions (by whatever Zeal inspired) that are not suitable to the Decency which is due from one House of Parliament to another, can shew a Respect to your Majesty, or add any Force to their Arguments.

We do not comprehend what is meant by their saying, we did appropriate to the House of Lords only, the Name of a Parliament. There is no Foundation for that Charge in any Word of our Representation ; nor was there any Occasion for such an Assertion in the Controversy between us : Both Houses are alike interested in the Point we maintain. We are sure the House of Commons have claimed and

and exercised such a Power of Examination and Commit- Anno 3 Anne,
1704.
ment as the Lords insist upon ; and we are well assured, that, 
as proper Occasions, every future House of Commons will do the like again : So that let the Gentlemen of the present House of Commons be as liberal as they please in renouncing their own Right, and as much displeased as they think fit with the House of Lords for not following their Example, we have this Comfort, that your Majesty is too equitable to think amiss of us for our parliamentary Rights, and we are sure of having every House of Commons, that shall sit hereafter, of our Side, as well as every *Englishman* who values the Constitution of his Country.

There is no Passage in our History more notorious, than that the pretended House of Commons in the Year 1648, when they could not prevail with the House of Lords, then sitting, to join with them in the intended Murder of their King, took upon them first to abolish to the House of Lords by a Vote, and then to proceed to do that execrable Fact by themselves.

It is not therefore to be imagined what the House of Commons can mean, by saying, that Assembly was composed of both Houses. If all other Proof of the contrary was wanting, yet the Testimony of that blessed, though unfortunate King, is abundantly sufficient, who made it one of his Exceptions to that detestable Court at his Trial.

We can never call to Mind that Fact without Horror, and yet we are obliged by Law to commemorate it every Year ; and surely it can never be mentioned more usefully than upon such an Occasion, when the strange Usage of one House of Parliament by another, makes it impossible not to reflect on the miserable Consequences that have formerly followed from such Differences.

When the Gentlemen of the House of Commons act according to the Measures taken in those Times, they ought not to be offended, if they are remember'd by the Lords. If they will take upon themselves, to stop the issuing out your Majesty's Writs for filling up their House, and that in several Places, and for a long Time, whereby they make themselves an imperfect Representation, which is a Wound to the Constitution, a Wrong to the Boroughs who have a legal Right to send Representatives, and an Injustice to your Majesty, who has an undoubted Title to the Service and Attendance of all the Members ; can they wonder, or ought they to complain, if we presume to tell your Majesty, that very few things were less excusable in that unhappy House of Commons, than their refusing to fill up their Body, and compleat the Representation ?

These

Arms, 1704. These beginnings are very dangerous: It is not easy to foresee how far such a Practice may be carried, or what Effects it may have upon the Boroughs that suffer the present Wrong, or upon others who may apprehend the like Usage; and who can say, but in after-times an ill Prince may take Advantage of such Precedents, and think himself justified in withholding his Writs from some, by as good Law as the Commons can shew, for pretending to stop them from issuing to others?

The Commons have made three Addresses to your Majesty upon this Occasion, yet have not stated the Matter in Dispute fairly in any one of them. The plain Matter of Fact is this; *Boucher, Ogleby, &c.* being seized by the Custom-House-Officers on the Coast of *Suffex*, as they landed from *France*, were sent for to be brought to Town by Messengers; the Lords having resolved to examine these Persons themselves, ordered the Messengers to bring them to the House, and committed them to the Black-Rod, in order to their Examination. The Question is, Whether this Proceeding of the House of Lords was a Breach of any Law, or contrary to the Custom of Parliament? We asserted it was not, and as we humbly apprehend, we proved our Assertion, by undeniable Reasons, and we assured your Majesty we could justify it by Precedents.

It appears by our Records, that we have at all Times, when we thought it expedient for the Public Good, not only taken Prisoners out of the Custody of Messengers (which is but a temporary Confinement in order to the examining Persons, or while they are under Examination) but taken them out of any other Custody, and put them sometimes into the Custody of your Majesty's Officers attending the House of Peers, sometimes removed them from one Prison to another, as the House thought most safe and proper for their Examination.

Persons condemned, and under Sentence of Death, may be most properly called the Prisoners of the Crown, when their Lives and Estates, as well as Liberties, are entirely at Mercy; yet the House of Lords sent for several in those Circumstances from the farthest Parts of *England* to be examined.

We could produce Precedents in all Times, when any thing of this nature has been before the House; the most antient Records furnishing the clearest and most frequent Instances of the Jurisdiction of the Lords, in examining, trying, and punishing all great Offenders.

But we shall at present confine ourselves to the Proceedings in respect to the Popish Plot, in the Reign of your Majesty's Royal Uncle, (except in some few Instances in both Houses, as well before as after that Time) not only because that was

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the last Conspiracy that fell under a Parliamentary Examination ; but because both Houses of Parliament entered into the Enquiry with equal Zeal.

And we beg Leave to annex to this our humble Address, some Extracts of the Proceedings of both Houses in that Enquiry.

We desire to observe, that though the King mentioned that Plot in his Speech, at the opening of the Session, yet he was so far from communicating the Particulars to the Parliament, or desiring them to look into it, that he directly told them, he would leave the Matter to the Law.

He was not very desirous of having the Parliament meddle with that Enquiry, and therefore it is reasonable to suppose, he would not have been silent, if their Proceedings had been a Violation of the Prerogative, and the known Laws of the Land.

We beg Leave to make this single Remark, on such of the Precedents as relate to the Removal of the Popish Priests after Sentence of Condemnation, that this was taken Notice of by the Commons, and several Messages passed between the two Houses about them : The Commons were earnest that they should be executed, and insisted to have them sent back to the several Prisons for that purpose ; but they never pretended to deny that the Lords had Power to send for them, or change the Custody.

The Commons in their second Address pretend to have been sensibly affected, and provoked to their harsh Treatment of the Lords, by what passed in the Lords House the 29th of January, which was almost six Weeks after their Address was presented.

It looks as if they wanted Reasons to justify the ordering that Address, when they are forced to defend it by Argument drawn from Facts which happened so long after.

If the Commons had considered our Address of the 29th of January, or 15th of February, they would have found in them no Contradictions, or Counter-Orders to your Majesty, with which they charge us. We were informed of several Papers that had not been communicated to us ; those we desired, and we received them by your Majesty's Command ; and have, we hope, made use of them for your Majesty's Service and the public Safety. We have had the Happiness that our Zeal has been more than once approved by your Majesty : And we leave the Commons to justify their own Coldness and Indifference in a Point of such high Concern.

If we look back on the Steps the Commons have made in this whole Matter, they are such as will hardly be believed hereafter : And we can desire nothing more for our Justification,

Anno 3 Anne,
1704.

Anno 3 Anne, fication, than that our Proceedings and theirs may be compared.
1704.

When the Papers relating to this Conspiracy were laid before them they contented themselves with reading them, and without offering any Advice or Assistance, gave your Majesty Thanks for laying the Papers before them, and expressed their Satisfaction in your Majesty's wise Conduct and great Care of your People. This was certainly justly due to your Majesty's prudent Administration, but was not all that might have been expected from a House of Commons, when your Majesty had laid before them the Account of such a dangerous Conspiracy.

Thus the Matter rested for several Weeks ; and when at last the House of Commons thought fit to take up a second Time the Consideration of those Papers, instead of doing what we hoped, and the Kingdom expected from them, all they did was to find new Cause of Displeasure against the Lords, to complain of what your Majesty had done, to solicit you to re-assume the just Exercise of your Prerogative, and to desire you to stop our Proceedings, as of dangerous Consequence, and what might tend to the Subversion of the Government.

This Conduct seems very unaccountable : And when they had not thought fit to pass any Judgment on the Conspiracy, it is hard that the Enquiry into it should be so severely censured.

The Commons confine what we spoke in general Terms, of the fatal Consequences that have happened in most Countries in *Europe*, from the unhappy Differences that have arisen between the Estates of the several Kingdoms, to the Instance of one Country : The Observation was general, and the Overthrow of the Liberties of most of our Neighbours sprung from this Root.

But we are surprized, that the House of Commons should single out that Instance of a Revolution in a neighbouring Country, where the Clergy and the Commons were prevailed upon by the Management of the Court, to carry their Resentments against the Lords so far, that they delivered up the Authority of the Lords, the Freedom of the People, and made a total Alteration of the Government.

We cannot imagine what is meant by calling this Treachery of the Commons and Clergy, in betraying the Liberties of their Country, their uniting in the public Defence ; nor can we conceive, how this comes to be mentioned on this Occasion : We hope there is no Danger of such Union amongst us for such Purposes ; and we think your Majesty and your People are equally concerned in this Insinuation.

It is wonderful that the Commons should magnify their own Care in examining our Journals, reflect on us for not looking into our own Books, and at the same time cite two Precedents, in which they are entirely mistaken, and which prove the direct contrary to what is inferred from them.

1704

The Lords in their Representation affirm, that the Commons by appealing directly to the Throne against the House of Lords, and charging them with Attempts of the highest nature, without first asking a Conference, had done a Thing unprecedented. The Commons, to prove the contrary, cite the Address presented to your Majesty on behalf of the Bishop of Worcester, and the Address of the Lords to the late King on behalf of four Lords named in their Address. We crave Leave to state those two Cases: The Commons had censured the Bishop of Worcester without giving him any Opportunity of being heard: They had voted him unchristian, which surely is aspersing the Innocent without Possibility of Reparation, as well as it was condemning him without a Trial, and made an Address to your Majesty to remove him from being Almoner. This Proceeding seemed very extraordinary with respect to your Majesty; and very unparliamentary with respect to the House of Lords, of which the Bishop was a Member, and yet no Notice was taken of them: Upon this the Lords made an Application to your Majesty on behalf of the reverend Prelate, that he might not suffer in your Majesty's Opinion, before he had an Opportunity of making his Defence.

The Case of the four Lords was this; the Commons having at the Bar of the House of Lords impeached them for high Crimes and Misdemeanors, the next Day made an Address to the late King to remove them from his Presence and Councils for ever: The House of Lords thought this an Attempt of the highest Nature upon their Judicature, that while the Causes were depending before them in Parliament, the Commons should quit the Part they had taken of Accusers, and pretend to be the Judges themselves, and solicit the King to put their Sentence in Execution immediately. But yet they proceeded to act with such a Moderation as was scarce to be justified; they forbore expostulating with the Commons, much less did they appeal to the Throne against them; they only desired the King not to pass any Censure upon them before they were tried; they took no Notice that the Commons had made any Address, and only endeavoured to prevent the Injustice and Oppression which might have been done to their own Members, and the Affront offered to their Judicature, without making the least Reflection on this Proceeding; and they had no other way of acting, for no

Anno 3 Anne, Conference could have prevented the Impression that might
 1704. have been made on the King by such an Application of the Commons.

Besides, in both these Cases the Commons were the Aggressors; they first applied to the Throne, and made it necessary for the Lords to follow them. Thus far these Instances may be of Use, to shew by what Steps the Commons rose to this way of addressing against the House of Lords; they began these Attempts in the Case of particular Lords, which now they put in Practice against the whole Body of the Peers.

The Lords will think themselves concerned in all times, to observe and maintain the Laws and Usage of Parliaments in Impeachments, and this they did with all possible Exactness upon the Occasion of the Impeachments of those four Lords; but they could not judge it reasonable to let the Accusers share with them in their Judicature. And if the Commons in times to come shall so far forget themselves, as to endeavour to blast Men's Reputations, by exhibiting Articles, when they are not able or prepared to maintain their Charge, the Lords will always look upon themselves as bound to do equal Justice, and discharge the Innocent. Nothing can truly lessen or weaken the Force and Awe of Impeachments, but a partial Use of them: While they continue to be the equal Instrument of public Justice, they will have their Weight in all Places; but if once they are made use of to defame Men only, without Thoughts of bringing them to Trial, Impeachments will lose their Terror, and the House of Commons will not increase their Honour or Authority: And if in that Case the House of Lords could not do Justice to the Accused, they woud be the only Judicature which had the unhappy Power of condemning, but not of acquitting.

The Lords are far from pretending to be the sole Examiners of Conspiracies, if the Commons will do their Duty in concerning themselves for the Public Safety; but if they will shew so little Zeal as the Gentlemen of this House of Commons have done; if, when they are told of Conspiracies from the Throne, they will concern themselves so little as to leave the Enquiry to others, the Lords must of consequence be the sole Enquirers, or else Parliaments must be totally excluded from such Examinations.

The Commons in their second Address complain, that they are accused most unjustly of exciting and earnestly desiring your Majesty to exert your Prerogative against the House of Lords. The Words of their first Address are so plain, that no other Construction could be reasonably put upon them, and we are now very sure we did not mistake their Mean-
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ing, since in the Votes which they have laid before your Anno 3 Anno 1704. Majest, they have thought fit to explain themselves, and in direct Terms desire your Majesty to re-assume the just Executive of your Prerogative, and take to yourself the Examination of the Matters relating to the Conspiracy.

There needs no wresting or straining these Words, to justify the Interpretation we made of their first Address, and surely they had forgot what they said in their second, when they came to pass those Votes, by which the Sincerity of their Professions, when they pretend to desire that the Remembrance of those unhappy Differences may be blotted out, does best appear. But we are still at a Loss to know what they truly mean by your Majesty's re-assuming your just Prerogative.

Your Majesty was pleased to lay the Papers relating to the Conspiracy before us, and you have given your Royal Approbation to the Method in which we had put the Examination: And it seems a strange Averseness to parliamentary Enquiries, that they would not leave it possible, even with the Concurrence of the Crown, for either House of Parliament to enquire into Conspiracies; tho' at the same time we must freely own, that if this Power be not lodged in us by the Constitution, it ought not, nor, indeed, cannot be given and delegated by the Crown.

Most Gracious Sovereign,

We humbly ask Pardon for having detained you so long, upon a Subject which cannot but be disagreeable to your Majesty.

We beg leave to conclude, with expressing the just Sense we have of that virtuous and truly royal Moderation, which your Majesty has shewn upon this Occasion, in not suffering yourself to be prevailed upon, to do any thing to the Prejudice of the Constitution, from whatsoever Hands the Invitation comes. It shall be our daily Prayers to Almighty God, that he will long preserve and and prosper your Majesty for the Good of this Kingdom; and that your Reign may be as glorious all the World over, as it is happy to all your People.

Her Majesty's most gracious Answer to the Representation, or Address, runs thus:

My Lords,

The Queen's

I hope none of my Subjects have any Desire to lessen my Answer. Prerogative, since I have no Thought of making use of it, but for their Protection and Advantage.

I look upon it as a great Misfortune, when any Misunderstandings happen between the two Houses of Parliament,

Anno 3 Annae, 1704. which cannot be without so much prejudice to the Public, that I shall never omit any thing in my Power to prevent the Occasions of them.'

PRECEDENTS out of the *Journals of the House of Lords.*

22nd die Maii, 1675. A Paper was presented to the House, being Examinations taken by some Justices of the Peace in the County of Surrey, concerning some blasphemous Speeches spoken by John Taylor, now a Prisoner at the Goal at Guilford, which Paper being read, the House ordered as follows, *wiz.*

Ordered, That the Serjeant at Arms bring in safe Custody to the Bar of this House, on Friday next, at ten of the Clock in the Forenoon, the Body of the said John Taylor.

Die Lunæ 21 Octobris, 1678. His Majesty acquaints the Lords and Commons with a Plot against his Person, in a Speech, part of which Speech, so far as relates to the Plot, follows, *in hoc verba:*

" I now intend to acquaint you, (as I shall always do with any thing that concerns me,) that I have been informed of a Design against my Person by the Jesuits; of which I shall forbear my Opinion, lest I may seem to say too much, or too little, but I will leave the Matter to the Law; and, in the mean time, will take as much Care as I can, to prevent all manner of Practices by that sort of Men, and of others too, who having been tampering in a high Degree by Foreigners, and contriving how to introduce Popery among us."

Whereupon, the House made the following Address;

" We your Majesty's most dutiful and loyal Subjects, the Lords spiritual and temporal in Parliament assembled, having been acquainted by your Majesty, that there is Information given of a horrible Design against your Majesty's sacred Life, (which God long preserve) are humble Suitors to your Majesty, that you would vouchsafe to communicate to us (as far as your Majesty shall think fit) such Papers as have any Tendency to the Discovery thereof, or of any other Design against the Protestant Religion, as it is now established in the Church of England, that we may use our utmost Endeavours to serve your Majesty, according to our bounden Duty and Allegiance."

23 Octobris 1678. The Papers concerning the Plot were delivered to the Deputy Clerk of the Parliaments, by one of the Clerks of the Council.

Lords Committees were appointed to consider of the Papers transmitted from the Council by his Majesty's Directions,

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cowering the Discovery of the horrid Design against his ~~Anno 3 Anne,~~
 Majestys sacred Person, or of any other Design against his ~~1704.~~
 Majest, or his Kingdom, by introducing Popery, whose ~~1704.~~
 Lordships have Power to send for Persons, Papers, and Re-
 cords, as they shall see Cause.

30 Octobris, 1678. Ordered, That *Nathaniel Thomson*,
 who is now in the Custody of *William Scroold*, for printing
 popish Books for *James Thomson*, shall stand committed to the
 Prison of the *Gate-House*, at *Westminster*, during the Pleasure
 of this House.

31 Octobris 1678. Ordered, That the Lords with white
 Staves do attend his Majesty, humbly to desire him from this
 House, that the Papers of Mr. *Whitebread* and Mr. *Micro*,
 which have been read at the Council-Table, may be, by his
 Majesty's Command, brought before the Committee to ex-
 aminate Papers, relating to the horrid Design against his Ma-
 jesty; and also that the Clerks of the Council may bring the
 Minutes, taken by them, upon the Examination of *Titus*
Oates, and others, before the Council, concerning this Matter.

4 Novembris, 1678. Ordered, That the Lords Committees
 appointed to examine the Lords who are Prisoners in the
Tower of London, for Treason, shall also examine such other
 Persons, who are now Prisoners in the *Tower* for Treason,
 as their Lordships shall think fit, and also Sir *Ellis Leighton*,
 now Prisoner in *Newgate*; and that the Lord Chief Justice
 of *England* do assist their Lordships at such Times as they
 shall appoint; and that one of the Clerks of the Privy-
 Council do attend their Lordships.

8 Novembris, 1678. Ordered, That the Lords, with white
 Staves, do attend his Majesty, humbly to desire from this
 House, that the Letter of Mr. *Coleman*, of the 29th of Sep-
 tember, 1675, to Father *Le Chesé*, and another of his to Fa-
 ther *Le Chesé*, wherein he owns the sending the said Letter,
 and Monsieur *Le Chesé*'s Letter, whereby he owns the Receipt
 thereof, which have not been read in this House, may, by
 his Majesty's Order, be brought hither.

The Lord Treasurer reported his Majesty's Answer.

" That his Majesty will give Order, that the said Letters
 shall be brought to this House, as soon may be."

18 Novembris, 1678. Ordered, That *Edward Coleman*,
 now a Prisoner in *Newgate* for Treason, be brought by the
 Keeper of *Newgate*, before the Lords Committees to peruse
 Letters and Papers, To-morrow at nine of the Clock in the
 Forenoon; and that the Duke of *Monmouth* be desired to send
 a sufficient Guard of Soldiers, to assist the Keeper of *Newgate*,
 in the Service of bringing and returning *Edward Coleman*.

Ordered,

Anno 3 Anne

1706.

Ordered, That the Lords, with white Staves, do humbly, before his Majesty, that his Majesty will please to give Order, that the Papers of Mr. Goodwin, now in the Hands of the Clerks of the Council, may be brought before the Lords Committees appointed to consider of, and prepare the Evidences for the Trial of Mr. Colomes.

23 Novembris, 1678. Ordered, That the Sergeant at Arms attending this House, his Deputy, or Deputies, do forthwith repair to *Straiford upon Avon* in *Warwickshire*, and bring thence the Body of Mr. *John Gerard*, supposed to be a Priest, and one other Person mentioned, but not named, (in a Letter dated there the 20th of November), and subscribed *Simon Cole*, *Mayon*, *John Walmer*; in which it is recited, that they were in Custody there, for refusing the Oath of Allegiance, and bring them in safe Custody to the Bar of this House.

27 Decembris, 1678. Ordered, That Dr. *Lower*, and Dr. *Warner*, be, and are hereby appointed to visit Mr. *White*, alias *Whitebread*, being sick near *Wald house*, and give this House an Account To-morrow Morning, in what Condition of Health they find him.

28 Novembris, 1678. Ordered, That the Clerk of his Majesty's Privy-Council, in whose Custody the Depositions lately taken at the Council-Board are, which concern the Queen's Majesty, be, and is thereby appointed to bring the said Depositions before this House To-morrow at nine of the Clock in the Forenoon.

29 Novembris, 1678. The House received an Account, that Dr. *Lower* and Dr. *Warner* have visited *Whitebread*, and they find that his former Distempers have left him, and he hath now only a *Tertian Ague*; and their Opinion is, that he may be removed safely upon his intermitting Days: It is ordered, that the Sergeant at Arms attending this House, shall, To-morrow, attach the Body of Mr. *White*, alias *Whitebread*, and carry him forthwith to the Prison of *Newgate*, there to remain in safe Custody, till he shall be delivered by due Course of Law.

Upon Information given to this House, that one *Daniel Maccarty*, a Romish Priest, is now under Custody in *Tbetford* in the County of *Norfolk*: It is ordered, that the Sergeant at Arms attending this House, his Deputy or Deputies, shall forthwith repair to *Tbetford* aforesaid, and bring thence the Body of the said *Daniel Maccarty*, in safe Custody to the Bar of this House.

20 Decembris, 1678. Whereas *Daniel Maccarty*, a Romish Priest, was, by Order of the 29th of November last, brought from the Jail of *Tbetford*, in the County of *Norfolk*, by the Sergeant at Arms attending this House, and is now in his Custody

Custody here; it is this Day ordered, by the Lords spiritual and temporal, in Parliament assembled, that the Lords Committees for examining Persons and Papers, for Discovery of the horrid Design against his Majesty's Person and Government, shall examine the said *Daniel Maccarty*: And if their Lordships find, that he is not charged with any Particulars relating to the said Design, he is to be remitted and left to the Law; but if otherwise, their Lordships are to report to the House what they find concerning him.

3 Decembris, 1678. Upon Information given to this House, by the Lord Windsor, that one *Edward Whitaker* stands committed in the City of Worcester, for some unbecoming Words by him uttered, as is certified in a Letter to his Lordship, signed *Jo. Tyas*, Mayor: It is ordered, that the said Mr. *Whitaker* shall give Bail before the Mayor of Worcester, for his Appearance before the Lords in Parliament, within eight Days next after such Bail given.

Die Veneris 13 die Decembris, 1678. *Edward Whitaker* being called for, to answer the Charge against him, sent up from the Mayor of Worcester, but being not to be found, It is ordered, that if the said *Edward Whitaker* come not, and render himself before the House rises, he shall be attached; and he not coming, it is ordered by the Lords spiritual and temporal, in Parliament assembled, that the Serjeant at Arms attending this House, or his Deputy, do forthwith attach the Body of *Edward Whitaker* of London, Gentleman, and bring him in safe Custody to the Bar of this House To-morrow Morning, to answer to the Informations put into this House, upon Oath, against him: And this shall be a sufficient Warrant on that behalf.

Die Sabbati 14 die Decembris, 1678. Whereas *Edward Whitaker* was this Day brought to the Bar by the Serjeant at Arms attending this House, to answer to the Informations against him, which he denies, alledging, that he hath Witnesses to clear himself of the Matters charged on him: Upon Consideration had thereof, it is ordered, by the Lords spiritual and temporal, in Parliament assembled, that the said *Edward Whitaker* may, and shall have Order for summoning his said Witnesses, to be heard *viva voce*, on the second Day of the sitting of the Parliament, next after *Christmas*, if he desires it; at which Time also, the Witnesses, who have informed against him, shall be summoned to be heard *viva voce*; and that in the mean time, the said Serjeant at Arms shall deliver the said *Edward Whitaker*, into the Prison of *Newgate*, there to remain in safe Custody till further Order: And this shall be a sufficient Warrant on that behalf.

3 Decem-

Anno 3 Anne,

1704.

3 Decembris, 1678. Upon Information given to this House, that one —— *Barnesly*, a Romish Priest, is now under Custody in the City of Worcester; it is ordered, that the Serjeant at Arms attending this House, his Deputy, or Deputies, shall forthwith repair to the City of Worcester, and bring thence the Body of the said —— *Barnesly*, in safe Custody, to this House.

Die Sabbati, 14 die Decembris, 1678. Whereas *Henry Barnesly*, who was, by Order of this House, sent for from the Goal of Worcester, was this Day brought to the Bar by the Serjeant at Arms attending this House, and there examined, being supposed to be a Popish Priest; it is ordered, by the Lords spiritual and temporal, in Parliament assembled, that the said *Henry Barnesly* shall, by the said Serjeant at Arms, or his Deputy or Deputies, be returned into the Goal in Worcester, there to remain in safe Custody, 'till he shall be thence delivered by due Course of Law: And this shall be a sufficient Warrant on that Behalf.

Die Luna 23 Die Decembris, 1678. Upon reading the Petition of *Henry Barnesly*, now in the Custody of the Serjeant at Arms attending this House, shewing, that, being by Order of this House brought from Worcester, and, by like Order, to be returned thither again; and that being very old and sickly, he is not able to bear the Journey in this hard Season of the Year; and therefore praying, that he may remain here upon Bail: It is ordered, by the Lords spiritual and temporal, in Parliament assembled, that the said *Henry Barnesly* (being charged to be a Popish Priest) shall, by the said Serjeant at Arms, be delivered into the Prison of the King's-Bench, there to remain in safe Custody, 'till he be better able to be returned to Worcester, in order to his Trial there; and this shall be a sufficient Warrant on that Behalf.

6 Decembris, 1678. Upon Report made by the Earl of Clarendon, from the Lords Committees to examine Persons, and Papers, &c. that their Lordships think it necessary that Sir *Henry Tichborne*, a Popish Recusant, now Prisoner in the Goal at Winchester, be brought up to Town: It is ordered, that the Serjeant at Arms attending this House, his Deputy or Deputies, shall forthwith repair to Winchester, and bring thence the said Sir *Henry Tichborne*, and deliver him into his Majesty's Tower of London, there to remain in safe Custody, 'till farther Order; And this shall be a sufficient Warrant in that Behalf.

To Sir *George Charnock*, Knight, Serjeant at Arms, attending this House, and to the Keeper of the Goal at Winchester, and to the Constable of his Majesty's Tower

of *London*, and their respective *Deputies* ; as also, to *Anno 3 Anne*,
all his Majesty's Officers, civil and military, to be aid- 1704.
ing and assisting in this Service.

20 Decembris, 1678. Upon Information given to this House upon Oath, that *Thomas Thorn*, now, or late, Servant to *Richard Tasbrough*, Esq; hath uttered dangerous and treasonable Words, and that he is at present in the Goal at *Bury* in *Suffolk* : It is ordered, that the Serjeant at Arms attending this House, or his Deputy or *Deputies*, shall forthwith repair to *Bury*, and bring thence the said *Thomas Thorn*, in safe Custody to the Bar of this House, to answer thereunto.

21 Decembris, 1678. Whereas *Richard Tasbrough*, Esq; was this Day brought to the Bar, by the Serjeant at Arms, and denied all that was alledged against him ; and whereas there is a Warrant of the Lord Chief Justice of *England*, issued against him ; it is ordered, that the Serjeant at Arms deliver the said *Richard Tasbrough* in safe Custody, to such Person or Persons as the Lord Chief Justice of *England* shall direct.

29 Martii, 1679. Upon Information given to this House, that *Richard Tasbrough*, Esq; who is charged to be guilty of the late horrid Conspiracy, for which he was committed to the Prison of the *King's-Bench*, hath since been enlarged, upon Bail, and is now to be brought to his Trial at the *Affizes* at *Bury*, in the County of *Suffolk* : Upon Consideration had of the Case of the said *Richard Tasbrough*, it is order'd, by the Lords spiritual and temporal, in Parliament assembled, that the Judge of *Affize* for that County be, and is hereby directed, that his Lordship proceed no further upon the Trial of the said *Richard Tasbrough*, than to the Indictment of him, and the finding thereof by the Grand Jury ; and that the said *Richard Tasbrough* may be safely sent up to *London*, in order to his Trial, to be had at the Bar of the Court of *King's-Bench*. And it is further ordered, that Mr. *Thomas Beake*, one of the Messengers attending his Majesty's Council-board, be, and is hereby authorized and required, with all Speed, to attend the said Judge of *Affize* for this Purpose, and to take Care of the Execution of this Order, as to the bringing up the said *Richard Tasbrough* in safe Custody, in order to his intended Trial : And for so doing this shall be a sufficient Warrant.

26 Decembris, 1678. Ordered, That it be referred to the Lords Committees for examining Persons and Papers, to examine *Richard Tasbrough* and *Thomas Thorn*.

Upon Information to this House by the Lord Viscount *Newport*, that one *Valentine Harcourt*, a Popish Priest, is 1704. taken,

Anno 3 Anne, taken, and now in Custody in the Goal of Shrewsbury: 1
 1704. is ordered, that the Sheriff for the County of Salop, be, and
 is hereby required, to take; and give Order for the sending
 of the said Valentine Harcourt in safe Custody, to appear a
 the Bar of this House, and that the Charge of the said Sheriff
 shall be allowed upon his Account in the Court of Exchequer.
 And it is ordered, that the Sheriffs of the respective Coun-
 ties, through which the said Valentine Harcourt shall pass
 in his being sent up, as aforesaid, be aiding and assisting
 to the Furtherance thereof, as Occasion shall require.

Die Veneris 21 die Martii, 1678-9. Upon Report made
 from the Lords Committees, for examining Matters relating
 to the Discovery of the late horrid Conspiracy, that Capt
 Francis Spalding, Deputy Governor of Chepstow-Castle, who
 was, by Order of this House, dated the 21st Day of No-
 vember last, committed to the Prison of the King's-Bench
 for Matters wherewith he stands charged, hath since that
 time been enlarged upon Bail, and being upon Bail, com-
 mands still at Chepstow-Castle, as Deputy Governor, and
 hath misbehaved himself, as hath appeared to the said Lord
 Committees: It is thereupon ordered, by the Lords spiritual
 and temporal, in Parliament assembled, that the Serjeant at
 Arms attending this House, or his Deputy or Deputies, di-
 forthwith attach the Body of the said Francis Spalding, and
 bring him in safe Custody to the Bar of this House: And
 this shall be a sufficient Warrant on that Behalf.

Die Jovis 27 die Martis, 1679. Captain Francis Spalding
 being brought to the Bar, by the Serjeant at Arms, was ask-
 ed, whether he is not under Bail? which he acknowledged
 and that Sir Ralph Delaval and Mr. Banks are his Bail, taken
 in the King's-Bench; and being asked, why he went down
 to Chepstow-Castle, being a Prisoner under Bail, and by
 whose Order? He said, he had no Order for it, but went of
 his own Head. Then the Matter wherewith he was charged
 and for which he was committed on the 21st of November
 last, was read, and also the Deposition of Thomas Crowder,
 a Soldier of that Garrison, was read, &c.

Whereas Captain Francis Spalding, who was on the 21st
 of November last committed to the Prison of the King's
 Bench, there to remain in safe Custody 'till further Order,
 hath since procured his Enlargement upon Bail, and repaired
 to Chepstow Castle, as Deputy-Governor thereof, and misbe-
 haved himself there, as appeareth by the Deposition of Tho-
 mas Crowder, and other Matters, upon which he was this
 Day examined at the Bar, being now in Custody of the Ser-
 jeant at Arms attending this House: It is ordered by the Lord
 spiritual and temporal, in Parliament assembled, that the said

Francis

Francis Spalding be re-committed to the Prison of the King's-
Bench, there to remain in safe Custody, 'till further Order;
and that the said Serjeant at Arms, or his Deputy, take care
to convey him, the said Francis Spalding, to the said Prison:
And this shall be a sufficient Warrant on that Behalf.

1704.

25 Martii, 1679. Upon Report made by the Earl of
Clarendon, from the Lords Committees for examining Mat-
ters relating to the Discovery of the late horrid Conspiracy,
that their Lordships are of Opinion, that Edward Turner, a
Priest and Jesuits, who hath been examined before them, and
is now in the Custody of Francis Strutt, a Messenger, should
be committed to Prison: It is ordered, that the said Francis
Strutt, shall forthwith deliver the said Edward Turner into
the Prison of the Gate-house, at Westminster, there to remain
as a Prisoner, 'till he shall be delivered by due Course of
Law.

To Francis Strutt, Messenger, his Deputy or Deputies, and
to the Keeper of the Prison of the Gate-house.

15 Aprilis, 1679. Whereas Sir William Andrews is seized
on, and brought to Town in Custody, as an Agent in the
late horrid Conspiracy against the King: It is this Day or-
dered, that the Officer, in whose Custody the said Sir Wil-
liam Andrews is, shall forthwith deliver the said Sir William
Andrews into the Prison of the Gate-house at Westminster,
there to remain a Prisoner, 'till further Order.

28 Aprilis, 1679. Upon Report from the Lords Commit-
tees for examining Matters relating to the Discovery of the
late horrid Conspiracy, that their Lordships have received In-
formation made upon Oath, that Sir William Andrews, now a
Prisoner in the Gate-house, at Westminster, is engaged in the
Conspiracy against his Majesty's Person and Government: It
is thereupon ordered, by the Lords spiritual and temporal,
in Parliament assembled, that the Keeper of the Gate-house
aforesaid, be, and is hereby required to take Care, that the
said Sir William Andrews be forthwith conveyed and safely
delivered into the Tower of London, there to remain a Pri-
soner, 'till he shall be discharged by due Course of Law; and
for so doing, this shall be a sufficient Warrant.

21 Aprilis, 1679. Upon Report from the Committee for
Luminations, that James Allen, who was taken into Custody,
being charged with encouraging Elizabeth Oxley to fire Houses,
was been examined by your Lordships, and denieth what
was charged upon him; and in regard the Examinations taken
concerning a House fired in Fetter lane, are before a Com-
mittee of Commons: It is ordered, that the Serjeant at Arms
bending this House, do forthwith carry the said James Allen

Anno 3 Annæ, to the said Committee, to be examined, and disposed of as
 1704. they please.

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Upon Report from the Committee of Examinations, that their Lordships think it necessary, that *William Sturges*, now a Prisoner in the Goal at *Chelmsford*, should be brought to Town: It is ordered, that the Serjeant at Arms attending this House, do forthwith repair to the Goal at *Chelmsford*, in *Essex*, and bring thence the Body of the said *William Sturges*, and deliver him into the Prison of the *Gate-house*, at *Westminster*, there to remain a Prisoner, 'till further Order.

23 Aprilis, 1679. Upon Report from the Lords Committees for Examinations, that their Lordships find it requisite, that *David Lewis*, who hath been tried and condemned as a Popish Priest, at the Assizes held for the County of *Monmouth*, and is now in Goal there, may be brought to Town: It is ordered, that the Sheriff for the County of *Monmouth*, be, and is hereby required to take Care, and give Order for the speedy conveying the said *David Lewis*, in Safety, from the said Goal, to be delivered into the Prison of *Newgate*, the Charges of which Service shall be allowed to the said Sheriff upon his Account in the Exchequer.

The like Order for *Roger Hanslip*, in the Goal at *Gloucester*.

The like Order for *John Kemple*, in the Goal at *Hereford*.

The like Order for *Francis Johnson*, alias *Webb*, in the Goal at *Worcester*.

8 Maii, 1679. The Earl of *Clarendon* reported from the Lords Committees for Examinations, that *William Harcourt* the Jesuit is taken, and now in the Hands of the Officer that took him: It is ordered, that the said *William Harcourt* be brought to the Bar presently.

Eodem die, post meridiem. *William Harcourt* was brought to the Bar, and being there charged with Treason, the House made the following Order:

Whereas *William Harrison*, alias *Harcourt*, was this Day brought to the Bar, and was there charged with High-Treason: It is ordered, that the Gentleman-Usher of the Black-Rod, attending this House, do take special Care, forthwith to convey the said *William Harrison*, alias *Harcourt*, in Safety to *Newgate*, there to remain a Prisoner, 'till he shall be discharged by due Course of Law.'

To the Gentleman-Usher of the Black Rod, attending this House, &c.

Die Lunæ 19 Maii, 1679. Whereas *Richard Gerard*, Esq; is charged upon Oath with Treason: It is ordered, that the Keeper of the Prison of the *Gate-house*, at *Westminster*, (in whose Custody the said *Richard Gerard* now is) be, and is hereby required forthwith to take care for the conveying

of the said *Richard Gerard* to the Prison of *Newgate*, there Anno 3 *Anne*,
to remain a Prisoner, 'till he shall be discharged by due 1704.
Course of Law: And this shall be a sufficient Warrant in that  Behalf.

30 *Octobris*, 1680. It being signified to this House,
that *Oliver Plunket*, the titular Primate of *Ardmagh*, in the
Kingdom of *Ireland*, is, by his Majesty's Order, brought
over hither, in order to his Trial here, and is now in Cus-
tody in the Hands of a Messenger: It is ordered, that the
Messenger, in whose Hands the said *Oliver Plunket* now
is, be, and is hereby authorized and required, forthwith to
convey and deliver the Body of the said *Oliver Plunket* into
the Prison of *Newgate*, and that the Keeper of the said
Prison do keep him there in Safety, until he shall be dis-
charged by due Course of Law: And that the said Keeper
and his Under-Officers do take Care, that the said *Oliver*
Plunket be kept a close Prisoner, till the Pleasure of this
House be farther signified; and this shall be a sufficient War-
rant in that Behalf.

To the Messenger in whose Custody the said *Oliver Plun-
ket* is, and also to the Keeper of the Prison of *Newgate*,
his Deputies and Under-Officers, and every of them.

4 *Januarii*, 1680. Ordered, By the Lords spiritual and
temporal, in Parliament assembled, that Mr. Attorney-Ge-
neral do peruse the Information read this Day, and draw
Warrants for the Commitments of Sir *John Fitzgerald*, Colo-
nel *Pierce Lacy*, and Lieutenant Colonel *Bradly*, as may be
available in the Law, and attend the Judges for their Assis-
tance therein, and present the same to the House To-morrow,
at ten of the Clock in the Forenoon.

Ordered, That Sir *John Fitzgerald*, Colonel *Pierce Lacy*,
and Lieutenant Colonel *Bradly*, do remain in the Custody of
the Pursuivant, as now they are, 'till the House gives further
Order.

5 *Januarii*, 1680. Ordered, By the Lords spiritual and
temporal, in Parliament assembled, that Sir *John Fitzgerald*
be committed to the *Gate-House* for Treason, - in compass-
ing the King's Death, and in levying War, and practising to
introduce a Foreign Force into the Kingdom of *Ireland*, and
to depose the King from the Crown of *Ireland*; and that the
Messenger, in whose Hands the said Sir *John Fitzgerald* is,
be, and is hereby authorized and required, forthwith to deli-
ver and convey the Body of the said Sir *John Fitzgerald* into
the Prison of the *Gate-house*; and that the Keeper of the said
Prison do receive and keep him there in safe Custody, 'till
he shall be discharged by due Course of Law: And this shall
be a sufficient Warrant in that Behalf.

Ordered,

Anno 3 Anne,
1/04.

Ordered, By the Lords spiritual and temporal in Parliament assembled, that *Pierce Lacy*, Esq; be committed to *Newgate* for Treason, in compassing the King's Death, and in levying War, and practising to introduce a Foreign Force into the Kingdom of *Ireland*, and to depose the King from his Crown of *Ireland*; and that the Messenger, in whose Hands the said *Pierce Lacy* now is, be, and is hereby authorized and required, forthwith to convey and deliver the Body of the said *Pierce Lacy* into the Prison of *Newgate*; and that the Keeper of the said Prison do receive, and keep him there in safe Custody, until he shall be discharged by due Course of Law: And this shall be a sufficient Warrant on that Behalf.

The like Order for Colonel *William Braddy*.

Die Martis, 10 die Decembris, 1689. Ordered, by the Lords spiritual and temporal, in Parliament assembled, that Mr. *Vernatti*, now in Custody, do stand committed to the Gentleman-Usher of the Black-Rod attending this House. And it is further ordered, that the said Gentleman-Usher go to the Lodgings of the said *Vernatti*, and secure his Papers, and seal them up in his Presence, and set a Guard on his House or Lodging.

PRECEDENTS out of the JOURNALS of the House
of COMMONS.

24 Martii, 14 Car. II. Upon Information, that *George Withers* had been the Author and Publisher of a scandalous and seditious Pamphlet, to enrage the People, and to vilify and defame the Members of this House, and to blemish the Honour and Justice of this House, and their Proceedings, and was now a Prisoner in *Newgate*.

Resolved, That the said *George Withers* be brought in Custody of the Serjeant at Arms attending this House, or his Deputy, to the Bar of this House, at four of the Clock this Afternoon, to be examined touching the Matters objected against him; and the Keeper of *Newgate*, or his Deputy, is to cause him to be brought accordingly.

Resolved, That this House do adjourn 'till three of the Clock this Afternoon.

George Withers being then brought in Custody to the Bar of this House, and the scandalous seditious Libel, with which he stands charged, being shewn unto him, the same being in two distinct Papers; upon View of the first of them, he declared, That the same might be his Hand, but that it was but Parcel of what he intended; and the other Writing being shewn to him, he confessed the same to be of his own Hand-writing; and two Witnesses being called in, *viz. Henry Norstrop and Robert Heyborne*, and testifying that they took the said

said Papers from under Mr. *Withers's* Hand, and that he was writing part of them just when they were taken from him; and that he did, upon Examination before Mr. Attorney General, confess the said Papers to be of his own contriving and drawing.

Anno 3 Anne;
1704.

Resolved upon the Question, That *George Withers*, who was this Day brought from the Prison of *Newgate* to the Bar of this House, be sent Prisoner, and delivered into the Custody of the Lieutenant of the *Tower*, there to be kept in close Custody, and to be denied Pen, Ink, and Paper, and debarred from having any Company to come unto him. And it is referred unto Mr. *Pryn*, Mr. *Serjeant Charleton*, Mr. *Solicitor-General*, *Serjeant Maynard*, Dr. *Birkenhead*, Mr. *Thurland*, Mr. *Smyth*, Mr. *Vaughan*, and Mr. *Clifford*, or any three of them, to peruse the seditious, infamous Libel by him contrived, and draw up an Impeachment against him, and report it to the House at their next Meeting.

21 Octobris, 1678. Ordered, That a Committee be appointed to examine concerning the Murder of Sir *Edmundbury Godfrey*, and to enquire into the Manner and Means how he came by his Death; and likewise to enquire into the Particulars of the Plot and Conspiracy, mentioned in his Majesty's Speech, against his Person and Government; which Committee was empowered to send for Persons, Papers and Records.

Ordered, That an Address be made to his Majesty, by such Members of this House as are of his Majesty's Privy-Council, humbly to desire his Majesty, that all Papers which do relate to the Plot and Conspiracy, mentioned in his Majesty's Speech, against his Person and Government, may be communicated to the said Committee.

23 Octobris, 1678. Resolved, &c. That the Matter concerning the Plot and Conspiracy, mentioned in his Majesty's Speech, against his Person and Government, be heard at the Bar of the House.

Ordered, That Mr. *Michael Godfrey* be forthwith sent for, to attend with the Papers and Examinations, taken by Sir *Edmundbury Godfrey*, and now remaining in his Custody sealed up, touching the Plot and Conspiracy mentioned in his Majesty's Speech,

24 Octobris, 1678. The Papers of Examinations taken by Sir *Edmundbury Godfrey*, touching the Plot and Conspiracy, mentioned in his Majesty's Speech, which were delivered in by Mr. *Michael Godfrey*, were opened, and by Mr. Speaker read to the House.

Ordered, That the Chairmen of the Committee, appointed to examine concerning the Murder of Sir *Edmundbury Godfrey*,

Anno 3 Annas, frey, concerning the Plot, mentioned in his Majesty's Speech.
 1704.

Ordered, That Mr. *White*, alias *Whitebread*, and Mr. *Micro*, be removed from the House where they are now, to *Newgate*, in case they be in a Condition fit to be removed.

25 Octobris, 1678. Mr. Speaker acquaints the House, that in Pursuance of the Order of the House Yesterday, he had waited upon his Majesty, and acquainted him with the Informations the House had Yesterday received, and that his Majesty was pleased to acknowledge the great Care of this House, in the Preservation of his Person and Government; and that his Majesty was informed, that Mr. *White*, alias *Whitebread*, and Mr. *Micro*, were at present very sick, but that his Majesty would send to see them; and if they were in a Condition fit to be removed, they should be forthwith sent to *Newgate*.

Ordered, That the Members of this House, who are Justices of the Peace for the County of *Middlesex*, do repair to the Lodgings of Mr. *White*, alias *Whitebread*, and Mr. *Micro*, and take their Examinations touching the Plot and Conspiracy mentioned in his Majesty's Speech, against his Person and Government; and do issue out their Warrants for searching their Lodgings, and seizing all such Papers and Writings relating thereto, as shall be there found.

25 Octobris, 1678, post meridiem. Ordered, That the Secretaries be desired to move the King, that the Keys of Mr. *Langborn*'s Chamber may be delivered by the Messengers, in whose Hands the same are, to the Committee appointed by the House to search Mr. *Langborn*'s Papers and Writings.

26 Octobris, 1678. Ordered, That an humble Address be made to his Majesty, by such Members of this House as are of his Majesty's most honourable Privy-Council, to desire his Majesty, that Mr. *Coleman*'s Papers, and all other Papers relating to the Plot and Conspiracy, mentioned by his Majesty in his Speech, may be communicated to the House.

Mr. Secretary *Williamson* informs the House, that in Pursuance of the Order Yesterday, he had attended his Majesty, and acquainted him with the Desires of this House, that a Committee of this House might have Leave to search Mr. *Langborn*'s Papers; and that his Majesty was pleased to give Leave that the same may be searched, and had appointed two of the Clerks of the Council to assist the Committee therein: And that his Majesty was pleased to deliver him some of Mr. *Coleman*'s Papers sealed up, and ordered him to deliver the same to the House; and had also commanded him to acquaint the House, that the rest of Mr. *Coleman*'s Papers were at present under Examination before

the House of Lords ; and that so soon as the Lords had done *Anno 3 Anneæ*, with them, they should be communicated to this House : 1704.
And the Papers were accordingly, by Mr. Secretary *William* , delivered in, sealed up.

29 Octobris, 1678. Ordered, That his Majesty be humbly desired, by such Members of this House as are of his Majesty's most honourable Privy-Council, that an Inventory, or List of all Mr. *Coleman's* Papers, which have been sorted by the Clerks of the Council, may be communicated to this House ; and that all those Papers which are not sorted, may be delivered over to a Committee of this House.

Ordered, That a Committee be appointed to examine Mr. *Coleman*, touching the Plot and Conspiracy mentioned in his Majesty's Speech.

31 Octobris, 1678. This House being informed that the Clerk of the Council was attending without, with Mr. *Coleman's* Papers ;

Ordered, That the Papers be delivered to the Clerk of the House, and by him transmitted to the Committee appointed to examine the same.

2 Novembris, 1678. Ordered, That the Clerk of the Council now in waiting, do forthwith attend with Mr. *Harcourt's* Papers and Writings ; and that all other Papers and Writings relating to the Plot mentioned in his Majesty's Speech, either in the Hands of the Secretaries of State, or in the Hands of the Clerks of the Council, be forthwith communicated to this House, according to the Leave graciously given by his Majesty.

22 Novembris, 1678. Resolved, That an humble Address be made to his Majesty, by such Members of this House as are of his Majesty's Privy-Council, to desire his Majesty, that such Letters and Papers which relate to the Plot now under Examination, as have not been perused by this House, may be communicated to them.

29 Novembris, 1678. A Message from the Lords by Sir *John Coel* and Sir *Samuel Clark*.

'Mr. Speaker, The Lords have received Information, that there is a Faculty under the Seal of Cardinal *Barberini*, for dispensing with the taking of the Oaths, and other things, in the Hands of a Member of this House, which their Lordships desire may be communicated to them.'

Sir *John Knight* acquaints the House, that the Paper mentioned by the Lords was found among Mr. *Ireland's* Papers, and he delivered the same in at the Clerk's Table ; which being read by Mr. Speaker,

Ordered, That the said Paper be sent to the Lords, and that Mr. Speaker do acquaint the Messengers, that when

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1704.

their Lordships have perused the same, this House does expect it should be returned again, in order to be entered in the Journal of this House: And the Messengers being called in, the said Paper was delivered them, and Mr. Speaker acquainted them with the Pleasure of the House.

26 April, 1679. Resolved, That an humble Address be made to his Majesty, to desire his Majesty to give Order for the executing of *Pickering*; and also to give Order to the Judges, to issue out their Warrants for executing the several Popish Priests, which they have condemned in their several Circuits.

5 Maii, 1679. The Lord *Ruffe* acquaints the House, that his Majesty had commanded him to let the House know, that his Majesty is willing to comply with the Request made to him by this House, concerning *Pickering*, and that the Law shall pass upon him accordingly.

As to the condemned Priests, the House of Peers have sent for them, in order (as his Majesty conceives) to some Examinations.

9 Maii, 1679. *post meridiem*. Mr. *Hampden* reports from the Committee appointed to inspect the Lords Journals, and see, *inter alia*, upon what Grounds the condemned Popish Priests are sent for, that the Committee had inspected the Journals, and taken out Copies of their Proceedings, which he reported to the House.

20 Maii, 1679. Ordered, That a Message be sent to the Lords concerning the condemned Popish Priests, sent for up to London from the several County Goals, by Order of their Lordships.

22 Maii, 1679. Sir *William Franklyn* reports from the Committee appointed to draw up and prepare a Message to be sent to the Lords, concerning the Popish Priests condemned in the Circuits, that the Committee had agreed upon a Message to be reported to the House, which he read in his Place, and afterwards delivered the same in at the Clerk's Table, where the same was twice read, and upon the Question, agreed, and is as followeth, (*viz.*)

The House of Commons having made an humble Address to his Majesty, that he would be pleased to give Order to the Judges, to issue out their Warrants for the executing the several Popish Priests condemned in the several Circuits; and his Majesty having been graciously pleased to signify to the House of Commons, that your Lordships have sent for them, in order (as he conceived) to some Examination: And the House of Commons being also informed, that the said Priests have, by Order from your Lordships, not only been brought out of the several Counties, where they were condemned,

bac

but continued yet in *Newgate*, and other Prisons, in or about Anno 3 Anne, the Cities of *London* and *Westminster*, by reason whereof the Execution of the Sentence pronounced upon them is still delayed, do desire of your Lordships, that the said Priests may be forthwith remanded to the several Counties where they were condemned, that so they may be executed, according to the Judgment passed upon them.

1704.

25 Octobris, 1 Will. & Mariæ, The House being informed, that several of the Prisoners of the Tower were now bailing in the Court of *King's-Bench*, being brought thither by the Governor of the Tower, by virtue of a *Habeas Corpus* awarded for that Purpose, particularly Sir *Thomas Jenner*, Mr. *Richard Graham*, and Mr. *Philip Burton*.

Ordered, That Sir *Thomas Jenner*, Mr. *Richard Graham*, and Mr. *Philip Burton*, be immediately brought to this House by the Governor of the Tower, to answer to such Matters as shall be objected against them.

And Mr. Speaker issued his Warrant accordingly, and the same was sent by the Serjeant at Arms attending this House.

Afterwards, the Serjeant acquainted the House, that Sir *Thomas Jenner* was bailed, and gone out of Court, and that Mr. *Graham* was bailing in the Court; and that notwithstanding he had delivered the Warrant to the Governor of the Tower, and that he was coming with Mr. *Graham*, and Mr. *Burton*.

Ordered, that Sir *Thomas Jenner* be sent for in Custody of the Serjeant at Arms attending this House, to answer to such Matters as shall be objected against him.

The House being informed, that Mr. *Burton* and Mr. *Graham* were at the Door, they were severally called in to the Bar of the House, and charged with the several Matters mentioned in the said Report, and heard what they cou'd say touching the same.

And being withdrawn, Ordered, That Mr. *Richard Graham*, and Mr. *Philip Burton*, be committed to the Custody of the Serjeant at Arms attending this House, for several high Crimes and Misdemeanors objected against them.

And it is referred to &c:

4 Januarii, 1697. The House being informed, that * Mr. *Reginald Marriot* had sent to several Members of this House, Letters, acknowledging that he had been concerned in the irregular Indorsement of Exchequer Bills; and therein offered fully to relate how that notorious Practice had been projected and carried on, and in what manner he had been drawn into the same.

R 2

Ordered,

* Mr. *Reginald Marriot* was under Prosecution, by Order of the Lord Commissioners of the Treasury, and was under Bail.

Anno 3 Anne,
1704.

Ordered, That the said Mr. *Reginald Marriot* be summoned to attend this House immediately, and the said Mr. *Marriot* attending accordingly: He was brought in by the Serjeant at Arms attending this House to the Bar, where he delivered an Account of his Knowledge of that Matter in Writing signed by himself, which he read at the Bar, and afterward delivered into the House.

Ordered, That the Examinations taken before the Lords of the Treasury, relating to the irregular Indorsement of the Exchequer Bills, be laid before this House.

A Motion being made, that the House will order that all Prosecutions at Law against the said Mr. *Marriot*, be stayed during the Pleasure of the House;

And a Debate arising thereupon:

Resolved, That the Debate be adjourned till To-morrow Morning.

Ordered, That the said Mr. *Marriot* be taken into Custody of the Serjeant at Arms attending this House; and that no Person be permitted to converse with, or bring any Letters to him, without Leave of the House.

5 Januarii, 1697. Mr. *Lowndes*, according to Order, presented to the House several Papers, relating to the Examinations, taken before the Lords of the Treasury, touching the false Indorsement of the Exchequer-Bills.

The House resumed the adjourned Debate of Yesterday, touching the ordering the Stay of any Prosecution at Law against Mr. *Marriot*.

Ordered, *nemine contradicente*. That all Prosecutions at Law against Mr. *Reginald Marriot*, in relation to the false Indorsement of Exchequer-Bills, be stayed, during the Pleasure of this House.

But nothing more was done in this Business.

March the 31st, The Lords address'd the Queen to put ~~one~~ into the Commission of the Peace who had refused the Oaths to King *William*, but Men of Quality and Estates, and of known Affection to her Majesty's Title and Government and the Protestant Succession.

April the 3^d, The Queen came to the House of Peers, and put an End to the Session with a Speech, which see in *CHANDLER's Hist. Anno 3 Anne, 1704, Page 391.*

Alterations at Court.

Upon the Close of this Session, her Majesty was pleased to make some Alterations at Court, by dismissing the Earl of Jersey, Lord Chamberlain, and Sir *Edward Seymour*, Comptroller, from her Service, and preferring Sir *Thomas Mansel*, and the Earl of Kent in their Room. Mr. *St. John* was likewise made Secretary at War in the Room of Mr. *Blaibraye*.

And

And the Earl of *Nottingham*, having some Time before resign'd his Office of Secretary of State, it was bestow'd on *Mr. Harley*, Speaker of the House of Commons.

The forcing the *French* Lines at *Donawert*, commonly called the Battle of *Schellenberg*, and the Victory at *Blenheim*, with all its glorious Consequences, were the Fruits of our military Virtue on that Side of *Europe*, and the taking of *Gibraltar* by *Sir George Rooke*, and the * Sea-Fight off *Magenta* with the Count of *Toulouse* (in which the *French* were superior in Strength to the Confederates, by ten three-deck Ships, twenty four Gallies, and six hundred great Guns) on the other.

Anno 3 Anne,
1704.
Exploits of the
Year 1704.



The THIRD SESSION of the First Parliament of Queen ANNE

WAS opened by her Majesty, October the 29th, with a Speech, which see in *CHANDLER's History, Anno 3 Anne, 1704, Page 392.*

The next Day the Lords attended her Majesty with an Address of Thanks, assuring her of their Concurrence in all her Undertakings, that they would improve to the utmost the blessed Opportunity put into their Hands, and congratulated the Success of her Majesty's Arms under the Conduct of the Duke of *Marlborough*.

December the 21st, The Lords address'd her Majesty that she would give Orders for fortifying *Newcastle*, *Berwick*, *Carlisle*, and *Hull*; and that the Militia of the four Northern Counties might be disciplined and provided with Arms, and that a competent Number of regular Troops might be kept upon the Northern Borders of *England*, and in the North of *Ireland*, and that the Laws might be put in Execution for disarming of Papists.

January the 17th, A Bill entitled, An Act to enable William Henry Earl of *Bath*, during his Minority, to execute the Power of making Leases of his settled Estate, being offered to be read; and a Debate arising thereupon,

After Debate, the Question was put, Whether the Bill offered shall be now read?

It was resolved in the Negative. Contents 46; Not contents 19.

Dissentient

* Both Sides claimed the Victory, but the French left the Confederates Masters of the Sea, and retired to *Toulon*, so disabled that they were not able to quit that Port, all the next Year.

Anno 3 Anne, *Dissentient*

1704.

For that the main Foundation, and greatest Motive for the legislative Authority to intermeddle in the Settlement of private Men's Estates, is the Desire and free Consent of all Parties concerned in the said Settlement first had and obtained, and the Lord Granville, next Heir to the present Earl of Bath, having, in his Place in this House, declared that he conceived his Interest, in that Estate, to be prejudiced by this Bill, and that he could by no means give his Consent to it :

We do therefore humbly conceive, the receiving this Bill to be contrary to the usual Method of Proceeding in all Bills of this Nature ; and therefore ought not to have been received.

Winchelsea, Craven, Granville, Rochester, Buckingham, C. P. S. Warrington, Nottingham, Guisford.

Bill for recruiting Land Forces. *March the 2d, Hodie 3^o vice lecta est Billa, entitled An A&t for the better recruiting her Majesty's Land-Forces and the Marines, for the Year 1705.*

The Question was put, Whether this Bill shall pass ? It was carried in the Affirmative.

Dissentient

Protest thereon. Because there is in the Bill this following Clause, *viz.* (That it shall and may be lawful for the Justices of the Peace of every County and Riding within this Realm, or any three or more of them, to raise and levy such able body'd Men, as have not any lawful Calling or Employment, or visible Means for their Maintainance or Livelihood, to serve as Soldiers, for the Purposes in the Bill mention'd.)

Thanet, Anglesea, Dartmouth.

Die Mercurii, 14 Martii. It is ordered by the Lords spiritual and temporal, in Parliament assembled, that the Representation and Address this Day presented to her Majesty, with her Majesty's most gracious Answer thereunto, and the Thanks of this House for the same, together with the Papers annexed to the said Representation and Address, and laid before her Majesty, shall be forthwith printed and published.

The Humble REPRESENTATION, &c.

Die Martis, 13 Martii, 1704.

Lords Representation. **W**E your Majesty's most dutiful and loyal Subjects, the Lords spiritual and temporal, in Parliament assembled, are under an unavoidable Necessity of making our humble Application to your Majesty, upon an Occasion, which, as it is very grievous to us, so we fear it may be uneasy to your Majesty: But the Proceedings of the House of Commons,

Commons, in relation to five Burgesses of the Town of *Aylesbury*. Anno 3 Anne, 1704.
John Paty, John Oviat, John Paton, Henry Basse, and Daniel Horne, have been so very extraordinary, that the Consequences of such Proceedings may prove so fatal to the Properties and Liberties of the People of *England*, and so directly tend to the Interruption of the Course of Justice, to the eluding the Judicature of Parliament, and to the Diminution of your Royal Prerogative, that we can't answer it to your Majesty, to the Kingdom, and to ourselves, without setting them before you in a due Light.

One *Matthew Alesby*, a Burgess of the Borough of *Aylesbury*, brought an Action upon the Case at Common Law, against the Constables of the Town of *Aylesbury* (being the proper Officers to return Members to serve in Parliament for that Place) for having by Contrivance fraudulently and maliciously hindered him to give his Vote at an Election.

In this Action a Verdict was found for him; but Judgment was given against him in your Majesty's Court of Queen's Bench, which was reserved upon a Writ of Error brought in Parliament; where he obtained Judgment to recover his Damages for the Injury, and afterwards had Execution upon that Judgment.

The five Persons above-mentioned, being Burgesses of the same Borough, and having (as they conceived) had the like Wrong done them by the Constables there, and, supposing the Law to be equally open to all *Englishmen*, did severally commence and prosecute Actions against those Officers, in order to recover their Damages.

And for so doing, they were sent for to the Bar of the House of Commons, and committed Prisoners to *Newgate*, the fifth Day of December last, during the Pleasure of the House of Commons, as having acted contrary to the Declaration, in contempt of the Jurisdiction, and in Breach of the Privileges of that House.

These Proceedings are wholly new and unprecedented. It is the Birth-Right of every *Englishman*, who apprehends himself to be injured, to seek for Redress in your Majesty's Courts of Justice: And if there be any Power that can controul this Right, and can prescribe when he shall, and when he shall not be allowed the Benefit of the Law, he ceases to be a Freeman, and his Liberty and Property are precarious.

The Crown lays claim to no such Power; and we are sure the Law has trusted no such Authority with any Subjects whatsoever.

If a Man mistakes his Case, in believing himself to have a good Cause of Suit when he has not, if he mistakes his Court, by applying to an incompetent Jurisdiction, he will fail

Anno 3 Anne, 1704. fail of Relief, and be liable to Costs, but to no other Punishment: He is not guilty of a Crime, nor is it a Contempt of the Court that has the proper Jurisdiction.

But these Men were guilty of no Mistake; the Point of Law was settled by the Judgment of that Court, which is allowed to be the last Resort, and this will continue to be the Law, till it be altered by the legislative Authority. They saw their Neighbour quietly and unmolested reap the Fruit of the Judgment he had obtained; and yet, for pursuing the same Remedy, they are condemned to an indefinite Imprisonment, during the Pleasure of the House of Commons.

This Method does introduce an Uncertainty and Confusion, never before known in *England*. The most arbitrary Governments cannot shew more direct Instances of Partiality and Oppression.

The Point of Law is judicially settled; and yet the House of Commons take upon them to punish Men by Imprisonment; for endeavouring to have the Benefit of what is so established for Law.

We humbly observe to your Majesty, that the first thing they alledged in the Warrant of Commitment, as to the Offence of these five Persons, is, that those Actions were brought contrary to a Declaration of the House of Commons.

It was never yet heard (when there was a House of Lords in being, and a King or Queen upon the Throne) that the House of Commons alone claimed a Power, by any Declaration of theirs, to alter the Law, or to restrain the People of *England* from taking the Benefit of it; nor have their Declarations any such Authority, as to oblige Men to submit to them at the Peril of their Liberty.

If they have such a Power in any Case, they may apply it to all Cases as they please; for when the Law is no longer the Measure, Will and Pleasure will be the only Rule.

The Certainty of our Laws is that which makes the chief Felicity of *Englishmen*: But if the House of Commons can alter the Laws by the Declarations, or (which is the same thing) can deprive Men of their Liberty, if they go about to take the Benefit of them, we shall have no longer Reason to boast of that Part of our Constitution.

The next Thing alledged in the Warrant is, that the commencing and prosecuting these Actions, was Contempt of the Jurisdiction of the House of Commons.

Such a Jurisdiction was never claimed by the House of Commons, till upon this Occasion; and if this Novelty of a Jurisdiction be founded on their new Authority of declaring, they will stand and fall together.

The House of Commons have for a long Time exercised *Anno 4 Annae*
 a Jurisdiction over their own Members, by allowing or dis-
 allowing their Elections, as they saw Cause: But they have
 never before entertained a Notion, that they had a Juris-
 diction over their Electors, to determine (finally and exclusively
 of all other Courts) the particular Rights of those to whom
 they owe their being.

Your Majesty's royal Writ commands, that the several Electors make Choice of Persons to represent them in Parliament, in order to do and consent to such Things as should be ordain'd there, relating to the State and Defence of the Kingdom and the Church, for which the Parliament is called: And they obey the Command, in proceeding to chuse Members for the Parliament then summon'd; but neither the Writ which requires them to chuse, nor the Indenture by which the Return is made, import any thing whereby it may be inferred, that the Electors put into the Power of their Representatives, their several Rights of Elections, to be finally dispos'd of at their Pleasure.

It was an Interest vested in them by Law before the Election, and which the Law will preserve to them, to be exercis'd again in the like manner, when your Majesty shall be pleased to call another Parliament.

It was not possible for the Electors to suspect, that such a Pretence would ever be set up by their Representatives, when, in the course of so many Ages, the House of Commons had never taken upon them to try or determine the Right of any particular Elector, unless incidently, and only in order to decide a Question, of the Title of some Member of their own House to sit amongst them.

The Right of Election is a legal Interest incident to the Freehold, or founded upon Custom, or the Letters Patents of your Majesty's Royal Ancestors, or upon particular Acts of Parliament, and must be tried and determined like other legal Interests: And this Consideration does manifestly shew the Absurdity of pretending, that such Rights can be decided by the House of Commons, where there is neither a Power of administering an Oath, in order to discover the Truth, nor a Power of giving Damages, which is the only Reparation the Elector is capable of receiving in such a Case. Therefore, if the Electors, when they are deprived of their Rights, have no Place to resort to, but the House of Commons, the Right of Election would be a Right without a Remedy, which indeed is no Right at all.

And it is put into the Power of the Officers, who have the Return of Members to serve in Parliament, to reject the Votes of as many Electors as they please, without being liable

Anno 4 Anne, 1704. ble to make any Reparation in Damages to the Parties ; which is a Notion not very likely to preserve the Freedom and Impartiality of Elections.

The third Thing alledged against these Men in the Warrant of Commitment is, that by bringing these Actions they have broken the Privilege of the House of Commons.

A Breach of the Privileges of Parliament is certainly a great Offence ; and, of all others, the House of Lords ought to be the last who should go about to lessen or excuse it, as having a like Interest with the Commons in the Preservation of the Privileges of Parliament.

But however it might seem the Interest of the Lords to be silent, while the House of Commons are setting a-foote new Pretences of Privilege, because they may share in the Advantage ; yet we think it our Duty and our Interest, to do all we can to preserve the Constitution entire, and not to sit quiet when we see Innovations attempted, which tend to the Diminution of the Rights of the Crown, or to the Injustice of the Subject : Because the best and surest way to preserve the rightful Privileges of Parliament, is to abide by those that are certain and known ; and it is not in the Power of either, or both Houses, to create new Privileges to themselves.

It never was thought a Breach of the Privileges of Parliament, to prosecute an Action against any Man, who was not entitled to Privilege of Parliament ; and therefore since the Constables of Aylesbury had no Privilege of Parliament, at the Time when those Actions were commenced or prosecuted, we cannot imagine, upon what Foundation the pursuing these Actions can be voted a Breach of Privilege by the House of Commons.

It seems very necessary it should be known upon what Rule this Pretence is grounded, that the People of England may be at a Certainty, and see some Limits set to the Claims of Privilege. To serve the Turn, it hath been said, there are privileged Cases, as well as privileged Persons ; but no Instance has been produced, whereby this Distinction can be applied to justify these Commitments.

Actions at Common Law have been brought upon false Returns and double Returns of Members to serve in Parliament, as in the Cases of Sir Samuel Barnardiston and Mr. Onslow, which proceeded to Judgment, and a Writ of Error was brought in one of them, and the Plaintiffs could not prevail in either of those Suits ; and yet it was never pretended, that the commencing or prosecuting those Actions was a Breach of Privilege of Parliament ; nor were the Persons concerned in them imprisoned or censured, tho' there was a much greater Colour for such a Pretence in that Case.

Cases, because the Question there directly concerned the ^{Anno 4. Anno 2.} Right of sitting in Parliament; and consequently those would have been indeed privileged Cases, if any such Distinction had been once thought of in those Days: Whereas in the Actions brought by these five Men, neither the Plaintiffs nor Defendants were Members of Parliament, nor did the Actions relate in any manner to the Right of sitting there.

1704.

The Opinion of the House of Commons, at that time, was very different from what it is now.

When the Judgment of the *King's-Bench* (where Sir *Matthew Hale* sat then Chief Justice) which passed in Favour of Sir *Samuel Barnardiston*, that the Action was maintainable, was referred in the Exchequer-Chamber, the House of Commons was so far from thinking it for their Advantage, to have their Members deprived of the Benefit of the Common Law, that in the Year 1679, a Committee was appointed to enquire touching the reversing that Judgment, and by whose Procurement and Solicitation, and by what Ways and Means, the same was reversed, and the Names of the particular Judges that were concerned: And when afterwards that Judgment in the Exchequer-Chamber was affirmed in Parliament, the House of Commons never thought themselves secure against the Corruptions of the Officers, who were to take the Poll, and make Return at Elections, till they had got an Act in the seventh and eighth Years of the late King, which gave a Remedy in *Westminster Hall* for false and double Returns; so little contented were they, in their own Cases, with the Jurisdiction of the House of Commons, and the Remedy to be had there, which now by so fiercely contend their Electors should entirely acquiesce in: And we cannot but think it manifest Partiality in those Gentlemen, to go about, by such violent Meane, to deprive their Electors of recovering of Damages, when they are wronged in being deprived of giving Votes, since they thought it necessary for themselves to have that Advantage, then they are injured in their own Elections.

The Sufferings of these unfortunate Men have not ended here, and the Rights of the free-born Subjects of *England* have received a further and no less dangerous Wound, in their Persons.

These five Men having endured a long and chargeable Imprisonment, and despairing of their Liberty any other Way, were advised to sue out Writs of *Habeas Corpus*, removable in your Majesty's Court of *Queen's-Bench*, hoping to obtain their Discharge by the Help of that Court, where the Judgment ought to be given according to the Laws of

Anno 4 Anne, the Land, without regard to any Votes, or Declarations, or
 1704. Commands to the contrary: But this Endeavour proved un-
 successful, and they were remanded to *Newgate* by three of
 the Judges of that Court, contrary to the Opinion of the
 Lord Chief Justice *Holt*.

We shall not presume to offer any Opinion to your Ma-
 jesty, upon Occasion of this Judgment, at present, because
 it is not regularly brought before the House; and we only
 mention it, because the House of Commons took such Offence
 at the bringing these Writs of *Habeas Corpus*, that, on the
 24th of February last, they voted, that whoever had abetted,
 promoted, countenanced, or assisted the Prosecution of those
 Writs, were Disturbers of the Peace of the Kingdom, and
 had endeavoured, as far as in them lay, to overthrow the
 Rights and Privileges of the Commons in Parliament.

This is a heavy Charge; and if it be so criminal a thing
 for a Prisoner to pray a *Habeas Corpus*, it does not only affect
 those who are at present concerned, but ought to touch every
 Commoner of *England*, in the most sensible manner.

Liberty of Person is, of all Rights, the most valuable;
 and of which, above all other things, the Law of *England*
 is most tender, and has guarded with the greatest Care,
 having provided Writs of several kinds, for the Relief of
 Men restrained of their Liberty, upon any Pretence, or by
 any Power whatsoever; that so in every Case they may have
 some Place to resort to, where an Account may be taken of
 the Reason and Manner of the Imprisonment, and the Sub-
 ject may find a proper Relief according to his Case.

No Crime whatsoever does put an *Englishman* into so
 miserable a Condition, that he may not endeavour, in the
 Methods of Law, to obtain his Liberty; that he may not,
 by his Friends and Agents, sue out a *Habeas Corpus*, and have
 the Assistance of Solicitors and Council, to plead his Cause
 before the Court where he is to be brought.

The Court is bound by the Law to assign him Council,
 if there be Occasion, and to give Judgment upon his Case,
 as it stands upon the Return of the *Habeas Corpus*, and have
 the Assistance of Solicitors and Council, to plead his Cause
 before the Court where he is to be brought.

The Court is bound by the Law to assign him Council, if
 there be Occasion, and to give Judgment upon his Case,
 as it stands upon the Return of the *Habeas Corpus*, and to re-
 mand, discharge, or bail the Prisoner, as the Cause of his
 Commitment appears there sufficient or insufficient in Law;
 and if what is alledged as the Cause of Imprisonment ap-
 pears to be no Crime in Law, it is not the Authority of
 those who made the Commitment, that can excuse that
 Court for remanding the Prisoner.

This

Anno 4. Anne,
1704.

This is the Law of England: But, according to these Resolutions of the House of Commons, if a Man has the Unhappiness (tho' through Ignorance or Mistake) to do an Act which shall be voted a Breach of Privilege, he becomes in a worse Condition than any Felon or Traitor; his Confinement makes it impossible for him, in Person, to solicit, and procure a *Habeas Corpus*, and, if any have Charity enough to assist him, or to plead for him, in order to shew to the Court the Insufficiency of the Commitment in Matter of Law, they become liable to lose their own Liberty, and are involved in the same Guilt of Breach of Privilege: So that let the Imprisonment be upon the most trifling Occasion imaginable, if it be by Order of the House of Commons, every Commoner must submit to it, without Redress, no Friends can help them, no other Authority can deliver them, till your Majesty shall put an End to that Session.

The Lords have as just a Concern, as the House of Commons can have, to maintain the Authority, and keep up the Awe of parliamentary Commitments: And they will always do it, as far as Justice and the Usage of Parliaments will allow.

There have been Cases, particularly that of the Earl of *Suffolk*, where Persons committed by the House of Lords, even Members of that House, have sued out Writs of *Habeas Corpus*; and upon the Returns of those Writs, have been brought before the Court of *King's-Bench*, and their Council, have been heard on their Behalf; and yet no Censure ever passed upon them for these Endeavours to obtain their Liberty, or upon their Agents, Solicitors, or Council.

The House of Commons formerly acted with more Reserve upon so nice an Occasion, as the Liberty of the Subject; for in the Year 1680, when a Writ of *Habeas Corpus* was served upon the Serjeant at Arms attending the House of Commons, in the Behalf of Mr. *Sheridan*, who stood committed by Order of that House; after the House was made acquainted, that such a Writ was served upon their Officer, and had entered into very long Debates upon the Matter, they did not think fit to interpose, nor pass any Censures upon the Persons concerned in procuring the Writ, or in appearing in Behalf of the Prisoners; but left the Serjeant at Arms at liberty to obey the Command of the *Habeas Corpus*; which he did accordingly, by carrying his Prisoner before the Judge, where the *Habeas Corpus* was returnable.

The House of Commons have, in former Ages, shewn a great and steady Concern for the Freedom of the Persons of their Fellow-Subjects; and upon their Petitions many excellent Laws have been made, to protect Liberty against all unlawful

Act 4 Anne, unlawful Restraints by any Authority, even that of the Crown :
 1704. But now it is insisted, that their own Imprisonments are out of the reach of those Laws, and their Legality not to be examined.

In the third Year of the Reign of your Royal Grandfather, the House of Commons made a noble Stand for the *English Liberties*, and shewed, by undeniable Evidence, that the Causes of the Imprisonment must be expressed in all Cases, that so it might appear, upon the Return of the *Habeas Corpus*, whether they were sufficient in Point of Law.

It could not then have been imagined, that the Successors of those Men would ever have pretended to an arbitrary and unlimited Power of depriving their Fellow Subjects of their Liberties, or to vote it to be criminal so much as to enquire into the Validity of their Commitments.

There is another Occasion of Offence, which the House of Commons have taken against *John Past* and *John Oviar*, two of these Prisoners, who thinking themselves wronged in their being remanded to *Newgate*, by the Opinion of the major Number of the Judges of the Court of *Queen's-Bench*, humbly petitioned your Majesty for a Writ of Error, in order to bring this Judgment before your Majesty in Parliament ; and it is certain the Subject is never concluded by any Judgment, till he comes to the last Resort fixed by the Law in this Case.

The House of Commons being informed of these Petitions, came to a Resolution, which they laid before your Majesty, that the Commitments of that House were not examinable in any other Courts whatsoever ; that no Writ of Error lay in this Case ; and that as they had expressed their Duty to your Majesty in giving Dispatch to the Supplies, so they had an entire Confidence in your Majesty, that you would not give leave for the bringing any Writ of Error.

The first Position in this Vote is very general, and the Consequences of it are plain ; if the Commitments of the House of Commons are examinable in no other Place, then no Man in *England*, how insolent soever, is secure of his Liberty longer than the House of Commons pleases ; and Men may be allowed at least to wish that it were not so, tho' they may have a very high Opinion of the Justice of that House.

It has been held as an undeniable Maxim, that whoever executes an illegal Command, to the prejudice of his Fellow-Subjects, must be answerable for it to the Party grieved.

Let it be supposed then, that an Action of false Imprisonment was brought against the Serjeant of the House of Commons, and that the Defendant justifies his taking the Plaintiff into Custody, by virtue of a Warrant of that House, and it appears upon the Face of the Warrant, that the Cause of the Com-

Commitment was no Crime in Law, and the Plaintiff demurs, *Anne & Anne*,
 what must the Judges do in such a Case? Will it be possible 1704.
 for them to avoid examining into the Commitment, and so give
 Judgment one way or other? Or can it be pretended, that a
 Writ of Error may not be brought upon such a Judgment? And is not the Court, before which the Writ of Error is
 brought, under a Necessity to do Justice thereupon, as the
 Law requires?

As to the second thing they have taken upon them to assert, that no Writ of Error lies in the Case, we affirm to your Majesty with great Assurance, that, by our Constitution, the House of Commons have no Right or Pretence to determine whether that be so or not, the Right of Judgment when a Writ of Error is properly brought, is by Law entrusted to that Court to which the Writ of Error is directed; and therefore we shall not at present say any thing to your Majesty, in an extrajudicial way, and before the proper Time, as to that Point, whether a Writ of Error brought upon a Judgment for remanding Prisoners upon a *Habeas Corpus*, can be maintained.

Which way that Question will be decided hereafter, when the Writs of Error are returned into the Parliament, is not at all material, in respect to the Petitions of the Prisoners which now lie before your Majesty: For, unless your Majesty be pleased to grant the Writs of Error according to their Prayer, the Matter cannot come to the proper Decision in Parliament, and Justice will be manifestly obstructed.

Whether the Writs of Error ought to be granted, and what ought to be done upon the Writs of Error afterwards, are very different Things. The only Matter under your Majesty's Consideration is, whether, in Right and Justice, the Petitioners are not entitled to have the Writs of Error granted.

We are sure, the House of Commons, in the Year 1689, were of Opinion, that a Writ of Error, even in Cases of Felony and Treason, is the Right of the Subject, and ought to be granted at his Desire, and is not an Act of Grace and Favour, which may be denied or granted at Pleasure: So that as far as the Opinion of the House of Commons ought to have weight in such a Question, (whatever the present Opinion of that House is) they then thought a Writ of Error was the Right of the Subject in capital Cases (where only it had been at any time doubted of.)

But that it is a Writ of Right in all other Cases, has been affirmed in the Law-Books, is verified by the constant Practice, and is the Opinion of all your present Judges, except Mr. Baron Price, and Mr. Baron Smith.

The

Shoo 4 Anne, The Law, for the better Protection of Property and Liberty, has formed a Subordination of Courts, that Men may not be finally concluded in the first Instance: But this is a very vain Institution, if they be left precarious in the Method of coming to the superior Court.

1704.

All Suits are begun, as well as carried on, by the Authority of your Majesty's Writs, and the Subject has a like legal Claim to all of them.

The Petition for a Writ of Error returnable in Parliament, is only Matter of Form, and Respect to your Majesty, (like the Petitions which the Speaker makes in the Name of the Commons, at the Beginning of every Parliament, for those Privileges which they do not believe to depend upon the Answer to those Petitions) and is no more to be refused than any other Writ throughout the Cause.

To affirm the contrary, is to allow an arbitrary Latitude to intercept Justice, and to make it depend upon private Advices, and extrajudicial Determinations, whether any Causes at all shall be brought to Judgment before the High Court of Parliament.

These Things being considered, how extremely surprizing is an Address from such a Body as the House of Commons, that your Majesty would not give Leave for such a Writ?

And no less surprizing is what they insinuate, as the Reason of their Confidence in your Majesty, that you would hearken to such an Address, that they have given Dispatch to the Supplies: They proceeded surely in the Matter of the Supplies, with a nobler Aim, for the Safety of your Majesty's Crown and Person, and for the delivering the Kingdom from the Oppression of *French* Power, employed to set an unjust Pretender upon your Majesty's Throne.

These are good Reasons for disposing of the People's Money. Their Liberties, and all that is valuable to them, depend entirely upon the good Success of the War; and they have used, in all Ages, to part freely with their Money, for the Defence of their Liberties and Properties, and the removing of Grievances and Oppressions.

But this is the first Time a House of Commons have made use of their having given the People's Money, as an Argument why the Prince should deny Writs of Right to the Subject, obstruct the Course of Justice, and deprive them of their Birth Rights.

On the twenty sixth of February, the House of Commons proceeded to carry on their Resentments to greater Extremities, and voted, that the Gentlemen who pleaded as Council for the five Prisoners, upon the Returns of the Writs of *Habeas Corpus*, and the Agents and Solicitors who assisted them;

... were guilty of a Breach of Privilege, and ordered Arrest & Commitment to be taken into Custody, which Order has been executed.

It seems to be so great an Error, that it is hard to find Words proper for expressing it. When Cromwell caused Mr. Maynard to the Tower, for affiting one Cromwell as Chancellor, upon a *Habeas Corpus*, a celebrated Author exclaims the Detraction due to such a Fact, in these Words: "It was the highest Act of Tyranny that ever was seen in the world: It was shutting up the Law itself close Prisoner, so that Men might have Relief from, or Access to it."

is strange and unjustifiable as this appears, we beg
to take notice of another Thing yet more irregular
(possible;) While the Matter was depending before
Majesty, upon the Petitions for Writs of Error; after
the House of Commons had made an Address to your Ma-
jesty, you would not give Leave for the bringing Writs
of Error, after your Majesty had, by your gracious Answer,
to them, "That this Matter, relating to the Course
of Proceedings, was of the highest Importance,
before your Majesty thought it necessary to weigh
it, very carefully, what was proper for you to
do after they had voted to take this very Answer
of your Majesty's into Consideration: The Day following,
the five Prisoners to be removed from Newgate,
into the Custody of the Serjeant at Arms attend-
ant of Commons; and this Order was executed at
such Circumstances of Severity and Terror,
seldom exercised towards the greatest Offenders.
Majesty is the only proper Judge how highly disre-
spective Action is to your Royal Person and Authority.
It concerns us to say, that such a Proceeding tends
to depriving the Petitioners of that Justice, which
they are labouring to obtain by Means of the Writs of

Majesty was deliberating how to put an End to
which they only had made difficult by an unre-
al, the House of Commons rightly apprehend-
ed, he would prevail with your Majesty over all ob-
stacles and therefore (as far as possible to dis-
tinguish, of the Fruit they expected from these
when granted) they transferred them, in the
shorter Prison.

ers from one Custody to
manifest Oppres-
sion of the
Liberty of the
-is Words.
by

Anno 4 Annæ, by the Act made in the Reign of your Royal Uncle King
Charles the Second, for the better securing the Liberty of the
Subject; that if any Person, being a Subject of this Realm
shall be committed to any Prison, or in Custody of any Officer
whatsoever, for any criminal, or supposed criminal
Matter, that the Person shall not be removed from the said
Prison or Custody, into the Custody of any Officer (unless it
be by a *Habeas Corpus*, or some other legal Writ;) and this
upon the great Penalties mentioned in that Act. The Penalties
in the Act were new, but the Law of *England* was the
same before the making it. The shifting of Men from one
Prison to another, while they are using Means in Course of
Law to recover their Liberty, is inexcusable Cruelty, and
against the plain Rules of natural Justice; for by such Arti-
fices, Imprisonments, however unlawful, might be made per-
petual, and the Subject, as he was at the Point of being dis-
charged from one Prison, might be, without end, removed
to another.

May it please your Majesty, your dutiful Subjects, the
Lords spiritual and temporal, were so solicitous to avoid any
thing, which might give a Pretence to interrupt the neces-
sary and early Provision for the War, in order to improve
the wonderful Successes God had given to your Arms; that
tho' they were sensible the Imprisonment of these Men, in
the Manner, and upon the Pretences abovementioned, was a
manifest Attempt to elude the Judicature of Parliament, and of
pernicious Example, to the Liberty and Property of the Sub-
ject, yet they forbore to take Notice of it, 'till they were
in a manner enforced by Petitions from the Prisoners, pre-
sented the twenty fourth of *February* last, and by the unjustifi-
able Proceedings of the House of Commons the same Day,
which we have already mentioned to your Majesty.

But then the Lords found it absolutely necessary, to enter
into a Confederation of the whole Matter, as it appeared to
them, and upon the twenty seventh of *February* they came
to the following Resolutions:

Resolved, That neither House of Parliament have Power,
by any Vote, or Declaration, to create to themselves new
Privileges, not warranted by known Law and Custom of
Parliament.

Resolved, That every Freeman of *England*, who apprehends
himself to be injured, has a Right to seek Redress
by Action at Law, and that the commencing and prosecuting
an Action at the Common Law, against any Person, who is
not entitled to Privilege of Parliament, is no Breach of the
Privilege of Parliament.

Resolved,

Resolved, That the House of Commons, in committing ^{Anno 4 Anne,} to the Prison of *Newgate*, *John Paty*, *John Oviat*, *John Paton*, *Henry Basse*, and *Daniel Horne*, for commencing and prosecuting Actions at the Common Law, against the late Constables of *Aylesbury*; for not allowing their Votes in the Election of Members to serve in Parliament, upon pretence, that their so doing was contrary to a Declaration, a Contempt of the Jurisdiction, and a Breach of the Privilege of that House, have assumed to themselves alone a legislative Power, by pretending to attribute the Force of a Law to their Declaration, have claimed a Jurisdiction not warranted by the Constitution, and have assumed a new Privilege, to which they can shew no Title by the Law and Custom of Parliament, and have thereby, as far as in them lies, subjected the Rights of *Englishmen*, and the Freedom of their Persons, to the arbitrary Votes of the House of Commons.

Resolved, That every *Englishman* who is imprisoned by any Authority whatsoever, has an undoubted Right, by his Agents or Friends, to apply for, and obtain a Writ of *Habeas Corpus*, in order to procure his Liberty by due Course of Law.

Resolved, That for the House of Commons to censure or punish any Person, for assisting a Prisoner to procure a Writ of *Habeas Corpus*, or by Vote, or otherwise, to deter Men from soliciting, prosecuting, or pleading upon such Writ of *Habeas Corpus*, in Behalf of such Prisoner, is an Attempt of dangerous Consequence, a Breach of the many good Statutes provided for the Liberty of the Subject, and of pernicious Example, by denying the necessary Assistance to the Prisoner upon a Commitment of the House of Commons, which has ever been allowed upon all Commitments, by any Authority whatsoever.

Resolved, That a Writ of Error is not a Writ of Grace, but of Right, and ought not to be denied to the Subject, when duly applied for, (tho' at the Request of either House of Parliament) the Denial thereof being an Obstruction of Justice, contrary to *Magna Charta*.

These Resolutions were delivered to the Commons at a Conference, the twenty-eighth of *February*, and they took time to consider of them 'till the seventh of *March*; upon which Day, at their Desire, a second Conference was had, and tho' it was too apparent by what was delivered by the Commons at that Conference (which consisted of injurious Invectives against the House of Lords, and tedious Recitals of Precedents, in no sort applicable to the present Subject of Debate) that their Design was either to provoke the Lords to such a degree, as might necessitate them to break off all

Anno 4 Annae, 1704. Correspondence, or by engaging them in new Matters, to draw things to such a length, as might prevent the bringing these Debates to any Issue during the Session: Yet the Lords immediately desired a free Conference, which was afterwards had with the Commons.

We are so desirous that your Majesty should be made fully acquainted with all the Passages relating to this Dispute between the two Houses, that we humbly beg leave to annex to this our Representation, what passed at the first and second Conference; and also (as far as we have been capable of recollecting in so short a time) the Substance of what was said at the free Conference, and in our Debates, in maintenance of the Resolutions of the House of Lords.

But we take it to be a Duty necessarily incumbent on us, to observe to your Majesty, the Manner in which we have been treated by the House of Commons, at these Conferences, so that from thence your Majesty, according to your great Wisdom, may judge to what such Proceedings do naturally tend. They told us, that the Judicature of the House of Lords was unaccountable in its Foundation, and inconsistent with the Constitution: If they mean it is so antient, that no Account can be given of its Foundation, 'tis true; but there is Reason to believe it began with the Monarchy, and we are sure it has continu'd without Interruption, unless during that unhappy Interval, when a pretended House of Commons destroyed the Church and the Monarchy, as well as the House of Lords: As many Ages as the Constitution of the English Government has lasted, this Judicature has consist'd with it, and formed a noble and necessary Part of it, and therefore these Gentlemen will hardly be believed against so long an Experience, that it is inconsistent with the Constitution.

They also charged the Lords in direct Terms, with usurping the hearing Appeals, with making Advances upon the Constitution, with contriving to bring Liberty and Property into the bottomless and insatiable Gulf of the Lords Judicature, and with direct Reproaches, as to the Manner in which that Judicature has been exercised, and in the most contumacious Way told us, they forbore to mention the Instances, because they hoped we would reform.

We desire no other Judge but your Majesty, how such a Treatment of us becomes these Gentlemen; and we dare appeal to all your Subjects, for Witnesses of the irreproachable manner of administering Justice in the House of Lords.

We hope the great Displeasure the House of Commons has conceived against us may prove of some real Service and of useful Caution to your Majesty, for it has drawn them directly

directly to own (what was but too visible before) that they Anno 4 Anne, 1704, are aiming at more Power, and a larger Share of the Administration, than is trusted with them by the Nature of our Government. They directly complained, that by the Constitution, the Judicature, in the last Resort, was not placed in the same Hands with the Legislature, tho' they cannot shew it to be so, in any Country where the Government is not arbitrary, and the Prince's Will the Law. They have been long endeavouring to break in upon the Lords Share in the Legislature, of which we could mention too many Instances to your Majesty. From an antient Claim, that Aids to the Crown are to begin in the House of Commons, and that the Lords could not alter the Sums, they have of late Years pretended (but without any Reason, and against the known Usage of Parliaments) that we could make no Alterations in any Part of a Money-Bill, tho' it have no relation to the Money: And, upon that foot, when they have had a mind to get any thing passed into a Law, of the Reasonableness of which they have despaired to convince the Lords, they have tacked it to a Money-Bill, in order to put the Crown and the Lords under that unhappy Necessity, either to agree to a Law they might think prejudicial to the Public, or to lose the Money, which perhaps, at that Time, was absolutely necessary to the saving the Kingdom.

By this Method they assume to themselves the whole legislative Authority, taking in effect the negative Voice from the Crown, and depriving the Lords of the Right of deliberating upon what is for the Good of the Kingdom: For this Reason the Lords had, in a very solemn manner, resolved never to suffer such Impositions for the future, let the Importance of the Bill be never so great. This Resolution was well known, and yet in this present Session (as appears by the printed Votes of the 28th of November last) a great Number of the Gentlemen of the House of Commons, to the manifest Danger of disappointing the Supplies of the Year, which must have been the Ruin of the whole Confederacy, and delivering up of Europe into the Hands of France, made an Attempt to tack to the Land-Tax a Bill which had been rejected in two preceding Sessions of Parliament.

Thus the House of Commons have formerly set on foot several Attempts, against that Share in the Legislature which is placed in the Lords: But this is the first time they have published their Desire, to be let into the Judicature of Parliament.

Whatever they would insinuate upon this Occasion, we desire not to meddle with the Choice of the Commons-
Repre-

Anno 4 Anne,
1,04.

Representatives, we willingly leave that Matter where it is, and in what manner it is exercised there; how impartially and how steadily, is so well known by Experience to most Parts of the Kingdom, and so universally understood, that the People will be extremely desirous their Estates and Properties should be subject to such Determinations.

It is not strange the free Conference ended without Success, when the Commons came to it with such a Temper, as appears by the Votes of the 8th of March, made after they themselves had consented to the free Conference. If those Votes had been published soon enough, it would have fully convinced the Lords, how vain a thing it was to confer with them further, upon the Matters in Debate at the former Conferences; for, not content with what they had done before, upon Information that their Serjeant had been served with two Writs of *Habeas Corpus*, returnable before the Lord-Keeper (Wright) in behalf of Mr. Montagu and Mr. Denton, two of the Gentlemen who had been of Council with the five Prisoners, they came to a Resolution, that no Commoner, committed by them for Breach of Privilege, or Contempt of the House, ought to be, by *Habeas Corpus*, made to appear before any other Judicature, and required their Serjeant to make no Return, or yield any Obedience to those Writs; and that for such Refusal he had the Protection of the House of Commons.

It has been always held the undoubted Prerogative of the Crown, to have an Account of the Reason why any Subject is deprived of Liberty, and it has ever been allowed, that, by the known Common Law, it is the Right of every Subject under Restraint, upon Demand, to have his Writ of *Habeas Corpus*, and thereupon to be brought before some proper Court, where it may be examined, whether he be detained for a lawful Cause: And the Statutes made in the Reign of your Royal Grandfather, and your Royal Uncle, have enacted, that in all Cases, Writs of *Habeas Corpus* be granted and obeyed, by the respective Officers, upon great Penalties.

But these Votes import a direct Repeal of those Laws, as to all Persons committed by the House of Commons.

It is no longer worth disputing, whether a Person committed by them, tho' for a Fact which appears to be both lawful and necessary, may be delivered by any Court; for by this new Law he shall never be brought thither, and the Serjeant is not only warranted, but commanded openly to contemn your Majesty's Royal Writs of *Habeas Corpus*, brought upon the Act of 31 Charles II. which is an Invasion of your Prerogative, never before heard of in England.

Your Majesty does not claim an Authority to protect any of your Officers for disobeying a known Law. The *Habeas Corpus*

Corpus Act, in time of imminent and visible Danger, was in the late Reign suspended by Acts of Parliament for some short time, and yet (so sacred was that Law held) that those Acts passed with great Reluctancy, and one of the Arguments that prevailed most for agreeing to that temporary Suspension was, that it would be an unanswerable Evidence to all future Times, that this Act could never be suspended afterwards, by any less Authority than that of the whole Legislature. But we live to see a House of Commons take upon them to suspend this Law by a Vote.

Anno 4 Annæ,
1704.

They ordered, that the Lord Keeper of your great Seal should be acquainted with their Resolutions, to the end the Writs of *Habeas Corpus* may be superseded, as contrary to Law, and the Privileges of their House. They are contrary to no Law, but that of these Votes, which surely are none of the Laws the Lord Keeper was sworn to observe: But yet he is to act at his Peril. They have ordered this Law to be published to him by their Clerk.

The Lord Keeper is a Commoner, and if he disobeys, 'tis a Breach of Privilege; and if they should carry it so far, as to order him into Custody, he may seek, but is not to have Relief from any *Habeas Corpus*.

We humbly beg Pardon of your Majesty for this long and melancholy Representation, which we could not avoid, without being guilty of Treachery to your Majesty, and to our native Country. The five Persons immediately concerned are but poor Men; but we well know your Majesty's Justice and Compassion extends itself to the meanest of your Subjects.

The Matters in dispute are of the highest Consequence: Your Majesty's Prerogative, the Reverence due to Laws, and the Liberties and Properties of all the People of *England* are concerned, and at stake, if these Encroachments prevail.

We do not pretend to sollicite your Majesty to put a Stop to these Innovations, your own Wisdom will suggest the most proper Methods: We have endeavoured to do our Duty, in laying the whole Matter before you.

We humbly beg leave so far to resume what has been said, as to present your Majesty a short View of the unhappy Condition of such of your Subjects, as have Right of giving Votes for chusing Members to serve in Parliament, which has been hitherto thought a great and valuable Privilege; but, by the late Proceedings of the House of Commons, is likely to be made only a dangerous Snare to them, in case they who may be hereafter chosen to serve in Parliament, shall think fit to pursue the Methods of this present House of Commons.

Anne 4
1704.

If they refrain from making use of their Right in giving their Votes, they are wanting in their Duty to their Country, by not doing their Parts towards the chusing such Representatives as will use their Trust for the Good of the Kingdom, and not for the Oppression of their Fellow-Subjects.

If the Officer, who has the Right of taking the Suffrages, refuse to admit them to give their Votes, they must either sit down by it, and submit to be wrongfully and maliciously deprived of their Rights; or if they bring their Actions at Law, in order to assert their Rights, and recover Damages for the Injury (as all other injured Men may do in like Cases) they become liable to indefinite Imprisonment, by incurring the Displeasure of those who are elected.

If, being thus imprisoned, they seek their Liberty by *Habeas Corpus*, (the known Remedy of all other Subjects) they do not only tie their own Chains faster, but bring all their Friends and Agents, their Solicitors and Council, into the same Misfortune with themselves.

If they think themselves to have received Injury by the Judgment upon the *Habeas Corpus*, and seek Relief by Writ of Error, (the known Refuge of those who suffer by any wrong Judgment) all that assist them in that matter, are likewise to lose their Liberties for it, and they themselves will be removed to new Prisons, in order to avoid the Justice of the Law.

We humbly conclude with acquainting your Majesty, that we have been informed, by the Petition of two of the Prisoners, that they have been long delayed, tho' they have made their Applications in due manner for Writs of Error: We are under a necessary Obligation, for the sake of Justice, and asserting the Judicature of Parliament, to make this humble Address to your Majesty, that no Importance of the House of Commons, nor any other Consideration whatsoever, may prevail with your Majesty to suffer a Stop to be put to the known Course of Justice, but that you will be pleased to give effectual Orders for the immediate issuing of the Writs of Error.

To which her Majesty was pleased, the same Day, to return the following most gracious Answer:

My Lords,

Queen's Answer. " I Should have granted the Writs of Error desired in this
" Address: But, finding an absolute Necessity of putting
" an immediate End to this Session, I am sensible there
" could have been no further Proceeding upon that Matter."

Ordered, by the Lords spiritual and temporal in Parliament assembled, that the humble Thanks of this House be presented

*Vote of
Thanks.*

presented to her Majesty, for her most gracious Answer, in Anno 4 *Anne*, which she has expressed so great a Regard to the Judgment 1705. of this House, so much Compassion to the Petitioners, and such Tenderness to the Rights of the Subject.

The same Day the Queen came to the House, and put an Parliament pro-
End to the Sessions, with a Speech to both Houses, (which regud.
fee in CHANDLER's *History*, *Anno 3 Anne*, 1704, *Page 441*)
and the Lord Keeper prorogued the Parliament to *Tuesday*
the first of *May*; which put an End to this Affair.

Soon after which the Duke of *Newcastle* was made *Lord Promotions*,
Privy-Seal, in the Room of the Duke of *Buckingham*,
Charles Earl of Peterborough, and *Hugh Lord Cholmondeley*,
were sworn of the Privy Council; the Earl of *Montagu* was
made Duke of *Montagu*; the Lord *Cutts* Commander of
her Majesty's Forces in *Ireland* under the Duke of *Ormond*;
Dr. Wake, Bishop of *Lincoln*, in the Room of *Dr. Gardner*,
deceased; and *Dr. Bull*, Bishop of *St. David's*, in the
Room of *Dr. Watson*, who was depriv'd. There were also
several Alterations in the Lieutenancy, &c.

Our Adventures this Year in *Flanders* proved not so surprizing as was expected: His Grace the Captain General
making an ineffectual March to the *Moselle*, and afterwards
forcing the *French Lines* at *Tirlemont*, without obtaining any
extraordinary Advantages in consequence.

In *April* the Parliament was dissolved, and a Proclama-
tion was set forth for calling another; which, being

The Second Parliament of Queen ANNE,

MET at *Westminster*, *October* the 25th, and on the
27th her Majesty made a Speech to both Houses
(to be found in CHANDLER's *History*, *Anno 4 Anne*,
1705, *Page 442*;) in Answer to which the Lords, on the
31st, returned the Address following:

WE your Majesty's most dutiful and loyal Subjects, Lords Address
the Lords spiritual and temporal in Parliament as of Thanks.
assembled, beg leave to make our humble and sincere Ac-
knowledgments to your Majesty, for your most gracious
Speech to both Houses, which has opened the Eyes and
raised the Hearts of all your loyal Subjects.

Your Majesty is pleased to give us Warning of the Dan-
ger of being so far deluded, as to depend again on the
Faith of Treaties; with an Enemy, who has never yet had
any other Regard to them, than as they served the Pur-
poses of his Interest and Ambition; and to inform us, that

Anno 4 Anne,
1705.

no Peace can be lasting, safe and honourable, till the ~~Span~~
nish Monarchy be fixed in the House of *Austria*, and *France*
reduced to such a Degree, that the Balance of Power in
Europe be again restored.

We humbly concur with your Majesty in these your wise and noble Sentiments, and we faithfully promise, that no Dangers shall deter us, nor any Artifices divert us, from doing all that is in our Power to assist your Majesty in carrying on the War, till you shall be enabled to procure such a Peace for Europe.

Your Majesty is graciously pleased to encourage us with the Hopes of a glorious Campaign the next Year, and we humbly present our Thanks to your Majesty, for having wisely and providently endeavoured to concert such Measures, as, by the Goodness of God, may be a reasonable Foundation for those Hopes: And we assure your Majesty, nothing on our Part shall be wanting to make them effectual.

We rest confident, that all your Majesty's Allies, excited by your Constancy and Courage, and fired by the Example of a Prince, whom you have been pleased to mention in so honourable a Manner, will make their utmost Efforts to carry on the Cause of Liberty, and bring this just and necessary War to a speedy and happy Conclusion.

May it please your Majesty,

What you have already performed, and what you are still pursuing for the Good of *Christendom*, discovers a Greatness of Mind equal to the most heroic of your Predecessors.

But we, who have the Happiness to be your Subjects, ought, in the first place, to admire in your Majesty, that tender and indulgent Affection to your People, which you have shewn from the beginning of your Reign; that earnest Desire to unite them among themselves, and to make them all easy, safe, and happy, under your Government; that steady Zeal for the Church of *England*, as by Law established; and, that Compassion for those who are so unhappy as to dissent from her: All which your Majesty having expressed at this time in so gracious and moving a manner, cannot but raise in us the most firm and lively Resolutions, of promoting every thing you have thought fit to recommend.

We assure your Majesty, we will do all we can to dis- countenance and defeat the Designs and Practices of those who foment Animosities among your People, and will ever shew the utmost Detestation of those ungrateful and

wicked Men, who labour to dishonour your Majesty's ^{Arms 4 Arms;} Reign, and distract your Subjects with unreasonable and ^{1705.} groundless Jealousies of Dangers to the Church of Eng-
land. We shall be ready to concur in all Measures requi-
site to put a Stop to the Malice of these Incendiaries. In
the mean time, we humbly advise and beseech your Ma-
jesty to require and command your Officers and Ministers,
to whom that Part belongs, that they prosecute and punish
them with the utmost Rigour of Law, as the most spiteful
and dangerous Enemies to the Church and State.

Your Majesty's Example is the shining Ornament of
our Church, which, under the Influence of your happy
Government, increases in Honour and Esteem, not only
at Home, but Abroad. Your unexampled Bounty for the
Relief of the Poor Clergy (which has been justly and uni-
versally acknowledged and celebrated) is an undenialble
Evidence of your Concern for the Dignity and Honour
of the Church. And your Majesty's Care to lay hold of
every Opportunity of declaring it from the Throne, makes
it impossible for any of your Subjects to entertain a real
Doubt of your Zeal for the Church, as by Law estab-
lished.

We beg leave to offer to your Majesty our most sincere
Assurances, that we will not be wanting in our utmost En-
deavours to reconcile and unite all your Subjects, and to
extinguish those unhappy Animosities which have too much
prevailed among us, the effecting whereof seems to be
the only Happiness wanting to compleat the Blessing of
your Reign, which we pray God may long continue, and
that you may see the Fruit of all your Majesty's gracious
Admonitions to your Subjects, in their hearty and entire
Union, and the happy Effects of all your great Designs
Abroad, in the well established Peace and Liberty of
Europe.

Her Majesty's Answer was as follows.

My Lords,

I Return you my hearty Thanks for your Address, and ^{Queen's An-}
I assure you it is a great Satisfaction to me, to find you ^{swer.}
are so ready to concur in those Things which I have
recommended to you."

The House of Lords having fixed upon the 15th of No- State of the
vember, 1705, to consider of the State of the Nation, her ^{Nation con-}
Majesty being present, the Lord Haverham opened the De-
bate in these Words :

April 4. Anno,

1705.

Lord Haver-
ham.

My Lords,

‘ It may perhaps be expected, since I moved to you the State of the Nation, that I should say somewhat to you upon this Occasion ; and tho’ I never laboured under more Difficulties than I do at present, yet being conscious to myself of a Heart full of Loyalty and Duty to her Majesty, and Zeal for her Service, as is possible for any Subject to have ; and knowing, that the best way of preserving Liberty of Speech in Parliament, is to make use of it, I will mention three or four general Heads to your Lordships, and speak to them with a great deal of Freedom and Plainness.

‘ The first Thing I shall speak to is, the present Confederate War in which we are engaged : And because the best way of judging what we may reasonably expect for the future, is to consider the Actions that are passed, give me Leave to take a little Notice to your Lordships of the Operations of the last Campaign : I shall not say much of our forcing the *French* Lines, and our beating the *French* Troops afterwards, (tho’ that was a very great and brave Action) but because there was such a Mixture of Victory and Misfortune ; and that this is such a chequered Piece, I purposely forbear taking further notice of it.

‘ But there were two other Actions which, I think, take in your whole Campaign, the March of our Army to the *Moselle*, and the Business of *Overijcb* ; in both which, give me Leave to say, (not to give it a harder Term) I think we were not used as we might have reasonably expected. Our General, with a great deal of Conduct, covered Prince *Lewis* of *Baden*’s Army ; nor can it be doubted, he might easily have joined us, if he had pleased, without the least Danger from the *French* ; which if he had done, (by the best Account I could ever get, and I think I have a very true one) we had been at least 25,000 stronger than the Enemy there. But being disappointed of being joined by Prince *Lewis*, and of the Affiance we expected from him, that great Design proved abortive.

‘ The next was the Business of *Overijcb*, where, by the Conduct of my Lord Duke of *Marlborough*, we had a fair Opportunity of putting an End to the War at once. But the *Dutch* held our Hand, and would not let us give the deciding Blow.

‘ Thus ended your Campaign, tho’ it began with more promising Hopes of Success than this next I believe will. You had then to deal with an Enemy, whose Councils were distracted, whose Troops were broke, and the Courage of his Army funk.

‘ From

* From all this give me Leave to conclude, that it is neither Men nor Money, Courage nor Conduct, that are the only Things to carry on a successful confederate War.

Anno 4. August,

1705.

* Those who command your Army, are Men of that Bravery, and every common Soldier hath so much Courage, that no equal Number of Men in the World, I think, can stand before them ; but let our Supplies be never so full and speedy, let our Management be never so great and frugal, yet if it be our Misfortune to have Allies that are as slow and backward, as we are zealous and forward ; that hold our Hands, and suffer us not to take any Opportunity that offers ; that are coming into the Field, when we are going into Winter Quarters ; I cannot see what it is we are reasonably to expect.

* The next Thing I shall take the Liberty to speak to, is the Point of Trade. Every one sees how our Merchants go off daily, and how low the Trade of this Nation at present is. I know, my Lords, there is a Word we are very fond of, which we call the Balance of Power ; but the Dutch, who are a very wise People, have a double View, and take as much Care of the Balance of Trade, as they do of the Balance of Power ; and are as fearful of our Power at Sea, as of the Power of France by Land. My Lords, the best Knowledge of Things, is by the Causes : It is Trade begets Wealth, as Wealth begets Power, and it seems very hard for England, that while the Dutch live at Peace under the Protection of our Arms, we, if we will have any Part of Trade with them, must have it under the Protection of their Passes : But it will be much harder, if, after their having the Advantage of a trading War, we should make a tradeless Peace.

* I know, my Lords, the Dutch generally complain they are very poor ; but give me Leave to say, I cannot see how they have been out of Pocket one Shilling since this War ; for they gain more by Remittances from England, than all the Money that goes out of their Country to Portugal, Spain, and the German Princes.

* There is one Thing more, which I take to be of the greatest Importance to us all. It is this I had chiefly in my Intention ; and with which I shall conclude what I have to say.

* But before I come to it, give me Leave to take Notice of one Thing to your Lordships. My Lords, it is the Happiness of England, and that which ever did, and ever will keep the greatest Ministers in Awe ; that by the Law and Custom of Parliament, the meanest Member of either House has undoubted Right to debate on any Subject, and to speak his Thoughts with all Freedom, without being liable to be called

~~Anno 4 Anne,~~ ^{1705.} called in Question by any Person whatever, till the Parliament itself hath taken Notice of them. This is grounded on the greatest Equity and Reason, because that which concerns all, should be debated by all: Nor is it possible for a Parliament to debate, or come to a clear Resolution on any Question, or to give Advice to her Majesty, as they ought, without this Freedom. I give good Authority to justify what I say: Sir *Robert Atkins* (P. 54.) in his *Treatise of the Power and Privilege of Parliaments*, tells us of the Case of one Sir *Thomas Haxy*, in the Time of King *Richard II.* who having delivered a Petition to the King, with which he was displeased, the King sent to the Speaker to know who it was that delivered that Petition; by which, says Sir *Robert*, it is apparent, the King cannot take Notice of any thing done in Parliament, (he names the House of Commons) but as it is represented to him by the House itself.

Having said this, give me leave to read to your Lordships a Paragraph of her Majesty's Speech to her last Parliament last Year. ' My Lords and Gentlemen, We have, by the Blessing of God, a fair Prospect of this great and desirable End; if we do not disappoint it, by our own unreasonable Humour and Animosity, the fatal Effects of which, we have so narrowly escaped in this Session, that it ought to be a sufficient Warning against any dangerous Experiments for the future.'

I shall not go about to shew the Grammatical Construction of these Words, but chuse rather to say, that as we enjoy many Blessings under her Majesty's happy Government, so I hope we shall have this too, that her Majesty will never give Ear to any secret and private Information; but as it comes to her in a Parliamentary way, by the Houses themselves,

' The last Thing, my Lords, is that which I take to be of the greatest Concernment to us all, both Queen and People. I love to speak very plain, and shall do so in this Point.

' My Lords, I think there can be nothing more for the Safety of the Queen, for the Preservation of our Constitution, for the Security of the Church, and for the Advantage of us all; than if the Presumptive Heir to the Crown, according to the Act of Settlement, in the Protestant Line, should be here amongst us. 'Tis very plain, that nothing can be more for the Security of any Throne, than to have a Number of Successors round about it, whose Interest is always to defend the Possessor from any Danger, and prevent any Attempt against him, and revenge any Injury done him. Is there any Man, my Lord's, who doubts, that if the Duke of Gloucester had been now alive, her Majesty had not been more secure

ture than she is ? We cannot think of that Misfortune without the greatest Grief ; but yet we are not to neglect our own Safety ; and tho' a Successor be not the Child of the Prince, yet is he the Child of the Queen and the People.

Besides, my Lords, the Heats and Differences which are amongst us, make it very necessary, that we should have the Presumptive Heir residing here : The Duty and Respect we pay her Majesty, and the Authority of the Law, can hardly keep us in Peace and Union amongst ourselves at present ; what then may we not fear when these Bonds shall ever happen to be broken ?

And would it not be a great Advantage to the Church, for the Presumptive Heir, to be personally acquainted with the Right Reverend the Prelates ? Nay, would it not be an Advantage to all *England* ; that whenever the Successor comes over, he should not bring a Flood of Foreigners along with him to eat up and devour the Good of the Land ?

I will say no more to your Lordships, but conclude with this Motion ; That an Humble Address be presented to her Majesty by this House, that her Majesty will be graciously pleased to invite the Presumptive Heir to the Crown of *England*, according to the Acts of Parliament made for settling the Succession of the Crown, in the Protestant Line, into this Kingdom, to reside here.'

This Motion was back'd by several Lords, but opposed by a great Majority, so that after a Debate of four Hours, the Question being put, Whether the Princess *Sophia* should be sent for over to *England*, or not ? The previous Question was put, Whether that Question should be put ? And was carried in the Negative : However, some Lords who were for inviting the Princess *Sophia* to come over, entered their Protest * ; and tho' the greatest Part of the House of Peers were against this Invitation, yet they so far concurred with the Tendency of this Speech, that they carried it without dividing on the 19th of the same Month, the Queen again present, that a Bill should be brought in, for the better Security of her Majesty's Person and Government, and of the Succession of the Crown of *England*, in the Protestant Line, &c. and at the same time, ordered

Bill for the better Security of her Majesty, brought in. Another for ordering twelving the Hanover Line.

* As follows :

Dissentient'

Because, we hardly conceive, the having a Presumptive-Heir to the Crown residing within the Kingdom, would be a great strengthening to her Majesty's Hands in the Administration of the Government, a Security of her Royal Person, and the Succession to the Crown, as by Law established, in the Protestant Line.

Winchelsea, Jersey, Buckingham, Nottingham, Anglesea, Haver-
ham, Rochester, Abingdon, Howard, Conway, Leigh.

And 4 Anne, 1705. dered another Bill to be brought in for naturalizing such of the Illustrious House of *Hanover*, as were Protestants.

A third to ap-
point a Re-
gency on the
Queen's De-
scase. And on the 21st, the Judges, according to Order, brought in a Bill to nominate these following Commissioners to act upon the Decease of her Majesty, for the better Security of the *Hanover Succession*, *viz.* Archbishop of *Canterbury*, Lord High Admiral, Lord Keeper, Lord Treasurer, Lord Privy Seal, Lord President of the Council, Lord Steward of the Household, and Lord Chief Justice of *England* for the Time then being.

A fourth for a
Union with
Scotland.

Address of
Thanks for her
Majesty's Care
Scotland, and
the Hanover
Succession.

The Lords, on the 22d, having adjourned the Debate touching the Mistarriages of the last Campaign, occasioned by the Allies, *first die*, went upon the *Scotch Affairs* (the Queen present) and ordered the Judges to bring in a Bill for an Union with *Scotland*, and that a Committee should sit thereon.

On the 24th, They resolved, that Thanks should be given to her Majesty for her great Care touching *Scotland*, and for her good Intentions, and for her Care in promoting the Interest of *Scotland* by the *Hanover Succession* in the Protestant Line. Resolved also, That all the Clauses in the former Act for an Union with *Scotland* should be repealed, except that which empowered her Majesty to nominate Commissioners.

December the 3d, Hodie 3^a vice letta est Billa, entitled, *An Act for the better Security of her Majesty's Person and Government, and of the Succession to the Crown of England in the Protestant Line.*

A Rider was offered to be added to the Bill to restrain the Lords Justices from giving the Royal Assent to any Bill for repealing or altering the *Act 31 Caroli Secundi*, called, *The Habeas Corpus Act*; the Act called, *The Toleration Act*; that called, *The Triennial Act*; and the *Act for regulating Trials in Cases of Treason*.

And the same being read, after Debate, the Question was put, Whether this Rider shall be read a second time?

It was resolved in the Negative.

*Dissentient**

Protest thereon. Because, we conceive, these Acts, mentioned in the foregoing Rider, are as necessary for the Preservation of the Protestant Religion, and the Rights and Liberties of the Subjects of *England*, as the *Act of Uniformity*, in the Opinion of the House itself, is for the Preservation of the Church of *England*.

Beaufort, Scarsdale, Haverham, Northampton, Guilford,
H. London, Carnarvon, Thanet, Anglesea, Rochester,
Granville,

Then, after further Debate, the Question was put, Whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentient

1st, Because, it having been our humble Opinion, that Protest thereon, nothing can so firmly secure the Succession to this Crown in the Protestant-Line, as the presumptive Heir's residing in this Kingdom, and our Proposal of an humble Address to her Majesty for that Purpose having been refused, this whole Bill also being founded on the said Heir's being absent at the Time of the Queen's Demise, we fear the Bill may prove not only ineffectual to these good Purposes for which it is designed, but dangerous also in preventing the said Heir's coming hither, in the mean time, by the Opinion some have of the Successor's being so well secured, that no such further Care needs to be taken about it.

2dly, Because every one of the seven Lords Justices, constituted by this Bill, is therein made so far independent of the very Successor, as not to be displaced by the said Successor in that Instrument, which is to be deposited here for the Addition of more Lords Justices; the Reason for which Addition we think equally strong, by enabling also the Successor to exclude, by the said Instrument, any of those seven Justices; which said Justices may otherwise be found (when, perhaps, it will be too late) invested with too great a Power, if they can ever be supposed capable of ill employing it.

3dly, Which last Objection we conceive to be of more Weight, since it was refused by the House to restrain those future Lords Justices from repealing the following Acts, *viz.* An Act for preventing Dangers which may happen from Popish Recusants; an Act for the more effectual preserving the King's Person and Government, by disabling of Papists from fitting in either House of Parliament; the Act for the better securing the Liberty of the Subject, and for Prevention of Imprisonment beyond the Seas; the Act for the further Security of his Majesty's Person, and the Succession of the Crown in the Protestant-Line, and for extinguishing the Hopes of the pretended Prince of Wales, all other Pretenders, and their open and secret Abettors; the Act for exempting their Majesties Protestant-Subjects, dissenting from the Church of England, from the Penalties of certain Laws; the Act for the frequent meeting and calling of Parliaments; and the Act for regulating of Trials in Cases of Treason and Misprision of Treason; which Laws we account the very

Anno 4. Annae, Pillars of our Constitution, and that consequently no Subjects whatsoever ought to be entrusted with the Power of passing any Act to repeal them, during the Time, when it will be impossible for the Successor to know any thing of the Matter, or so much as that the said Successor is become our Sovereign.

4thly, Because in this very Bill, which entrusts the Lords Justices with a Power of giving the Royal Assent to Laws of so dangerous a Nature, and with all the executive Power, yet, we conceive, they are restrained from revoking the least military Commission, or disbanding any Officer of the Army, tho' never so much deserving to be suspected by them.

Lastly, We apprehend the great Danger her Majesty may be exposed to, since whatever is insufficient to secure the Succession in the Protestant Line, and may render it liable to Difficulties or Uncertainties, must also encourage ill Designs against her sacred Life : which may be thought the only Obstacle in the Way of such wicked Persons, who may flatter themselves with the Hopes of Confusions after it.

Beaufort, Carnarvon, Denbigh, Buckingham, Anglesea, Hawkesbury, Nottingham, Thanet.

I dissent for the four last Reasons,

Granville.

And I also,

North and Grey.

And I also,

Guernsey.

Enquiry into the
Danger of the
Church.

Lord Rochester.

The 6th being appointed to enquire, Whether the Church was in Danger, the Lord Rochester began the Debate, and told their Lordships, ' the Subject-Matter of it was of so tender a Nature, that it was difficult to speak to it : For her Majesty had expressed herself so conclusively in her Speech, that it seemed to be to contradict the Queen to speak freely ; but in regard that the Ministers might be supposed to compose the Speeches, he desired that what he said might not be offensive to the Queen, to whom he had all the Affection and Respect that could be. He said, that Ministers might mistake, and not always act for the public Good, and instanced in the Ministry of *Portugal*, where the King was our Friend, the Ministry seemed to be otherwise, insomuch, that that Alliance was of no Benefit to us : That the Duke of *Buckingham* and Archbishop *Laud* were hearty in the Interest of King *Charles I.* and yet did many things that very much injured him. The full Expressions in the Queen's Speech he compared to the Law in King *Charles the Second's* Time, to make it Treason to call the King a Papist ; for which very Reason, he said, he always thought him so. The Reasons he gave for his Fear of the Church's Danger arose from these three Causes : First, The Security-Act in *Scotland* : Secondly,

ly, The Heir of the House of *Hanover* not being sent for Anno 4 *Anno*,
over: Thirdly, The not passing the Occasional-Bill. Upon 1705.
the first he said, the Presbyterian Church in *Scotland* was
fully established without a Toleration, that to arm that Peo-
ple was to give them a Power to invade *England*, where
they had a powerful Party for their Friends, who never
wanted the Will to destroy the Church: That he thought
the Heir of the Crown ought to be present among us, in or-
der to be fully acquainted with us and our Constitution, and
thereby enabled to prevent any evil Designs upon the Church
and State: That the Occasional-Bill was in itself so reason-
able, and the Church's Request in it so small, that the In-
dustry in opposing it gave the greater Ground for Suspicion.'

When that noble Lord had done, the House sat still a Quarter of an Hour, expecting some body would second him; but no body else speaking on that side, the Lord *Hallifax* said *Lord Hallifax*, that he having moved for the present Debate, it might be ex-
pected that he should speak to it. He said, 'the Act of Secu-
rity in *Scotland*, was national Thing, wholly foreign to
Church-Affairs; that it was not to pass, but to prevent im-
mediate War, which the *Scots* seemed to have resolved upon;
that, in case it should ever be made Use of, it would be but
as other Wars with that Nation had been, in former Days,
wherein *England* was always able to defend itself, and would
sure, hereafter, be more able to do it, inasmuch as the Strength
of *England* was increased much more than that of *Scotland*;
so that unless *France* should come into the Quarrel, whose
Hands were already too full to do it, it would signify little:
But, blessed be God, Things were so well compromised with the
Scots, and their former Heat so much abated, that there was
no Reason to doubt of an amicable Issue of that Difference:
As to the House of *Hanover*, he said, that was a Danger of
but eight Days standing; for he durst say a Fortnight ago,
no body made the Absence of the Princess *Sophia*, a Danger
to the Church; and as for her Absence upon the Queen's
Death, that was now so well to be provided for by the Act
for Lords Justices, that he thought no Evil could possibly hap-
pen to the Church before her Arrival. That he wondered
the House of *Hanover* should be now esteemed such a Security
to the Church; whereas, when the Laws were made for the
Security of that Succession, it was generally reckoned a Hard-
ship upon the Church: And a Clergyman, in a Company of
Convocation-men, had openly called her an unbaptized *Lu-*
theran; the Truth of which he could prove. As to the Oc-
casional-Bill, he said, that Matter had been canvassed already,
and it was then the Opinion of that House that it would not
prove of any Advantage and Security to the Church, but ra-

Anno 4 Annae, ther the contrary. That, upon the whole, there had been
 1705. Times in our Memory, wherein the Church might be said
 to be in Danger. King *Charles II.* was a Roman Catholic,
 at least his Brother thought fit to declare it after his Death;
 and the Successor, who had the Management of all Affairs,
 was known to be such, and yet the Church thought herself
 then secure, and those Patriots that stood up in it's Defence,
 and endeavoured to prevent the Evils which might ensue from
 a Popish Succession, were discountenanced and punished : Nay,
 when that Successor came to the Throne, and that the Church
 was very apparently in the greatest Danger, by the High-Com-
 mission Court, and otherwise, we were then indeed generally
 alarmed ; but we know who sat in that Court, (meaning Lord
Rochester) and went large Steps in the Work then on Foot.
 That, soon after the Accession of King *William* to the Crown,
 this Cry of the Church's Danger began, and was continued all
 his Reign, but with what Ground he was yet unapprized :
 That, upon her Majesty's happy Succession, for some time, the
 Complaint was silent ; but that when she was pleased to make
 some Alterations in her Ministry, it was immediately revi-
 ved, and had ever since continued ; and then concluded that
 the Church was now in no manner of Danger.'

Bishop of Lon-
 don.

This gave occasion to the Bishop of *London* to speak, he
 coming into the House just as the last Words were deliver-
 ed, and immediately took the other Lord up, giving for his
 Reasons, ' That the Church was in Danger ; that Prophane-
 ness and Irreligion was so rife among us, and so intolerable
 the Licentiousness of the Press, from whence Books proceeded
 not fit to be read, that a most vile one had been lately publish-
 ed by a Clergyman in his Diocese (meaning *Hickeringhil*)
 whom he endeavoured to punish, but that he had such Subter-
 fuges in the Quirks of the Law, that he could not come at
 him ; and that Sermons were preached wherein Rebellion was
 authorized, and Resistance to the higher Powers encouraged'.

Bishop of *Saram*.

This was the Substance of what his Lordship said ; to
 which the Bishop of *Saram* replied ; ' That his Lordship
 ought to have been the last Man to complain of that Sermon ;
 (meaning *Hoadley's*, before the Lord-Mayor) for, if the Doc-
 trine of that Sermon was not good, he did not know what
 Defence his Lordship could make for his appearing in Arms
 at *Nottingham*. Then the Bishop proceeded to the Question
 in Debate ; he began with a Piece of *French* History in the
 Reign of *Henry III.* (which he said had been much in vogue of
 late in a neighbouring House) [where Sir *Humphrey Macworth*
 had made Use of it] in whose Time the Catholics set up the
 same Cry of the Church's Danger from the *Hugonots*, and
 forced the King to comply with them ; but that their
 Power

Power thereby becoming great, they turned it upon the ^{the Anno 4 Annæ,} King himself, and he found he should be thrust into a Monastery, if he did not speedily crush them, and therefore stabb'd the Duke of *Guise*, their Head: He then compared our State-Affairs with the other, and imputed all this present Clamour to the Ambition and Discontent of particular Men. To the Reasons that noble Lord (who began the Debate) gave for the Church's Danger, he replied, That as for the *Scotch* Affairs he was particularly acquainted with them, and therefore he would venture to speak with the more Assurance; that the *Scotch Kirk* being established without a Toleration, was an unfair Allegation, for there needed no Law for Toleration, where there was no Law to inhibit: The *Episcopalians* were not forbid to worship God their own way, being only excluded from Livings, and that there were at that Time fourteen *Episcopal* Meeting Houses in *Edinburgh*, as open as the Churches, and as freely resorted to, in many of which the *English* Liturgy was used, but that in several of them the Queen was not prayed for; and the Bill for giving Patrons Liberty of conferring their Benefices on Clerks, episcopally ordained had passed, (at least the King had allowed it) if they would have put in a Clause to oblige them to take the Oath to the Government; but upon the offering that Clause, the Person that solicited it let it drop: His Lordship, who had mentioned the *Act of Security*, if he had looked two Years backwards, might have found another Law which seemed much more to his Purpose, namely, the *Act for confirming Presbytery*, ¹ *Annæ*; but his Lordship was a Minister of State, when that *Act* passed, and so perhaps advised it: As to the Argument of the *Hanover-Family*, it could not be observed that he offered any thing remarkable; and for that of *Occasional-Conformity*, he said, it had been there already sufficiently argued, and he was glad that they were rid of it: But for what the Reverend Prelate had advanced he must speak, and said, indeed, that the Enmity of Prophaneness and Irreligion the Church would always be subject to: The Devil would have his Agents in the World, be the Government never so careful; but, he hoped he might say, that Irreligion and Prophaneness were not now at an higher Pitch than usually: That he hoped quite the contrary, and thought the Society set up for Reformation in *London* and other Cities, had contributed considerably to the Suppression of Vice: He was sure the Corporation for Propagation of the Gospel had done a great deal towards instructing Men in Religion, by giving away great Numbers of Books in practical Divinity, by erecting Libraries in Country-Parishes, by sending over very many able Divines to the foreign Plantations

Anno 4 Anna, 1705. tions, erecting Libraries there for their Use, and setting up Schools to breed up the Children in Christian Knowledge; that to his Knowledge 1200l. had been expended last Year in Books to these Purposes, all collected by voluntary Contributions; but in Truth very little of it from those who appeared so wonderfully zealous for the Church. That the Press was indeed become very licentious, and Sermons were preached wherein very strange Expressions were published. That he would read some of them to their Lordships, and then pulling out *Tilly's* and *Madder's* Sermons, he read some Paragraphs: These, said he, were what were preached at *Oxford*, and these are the Men picked out for public Occasions: I must remark that both these Gentlemen are of a House, where a noble Peer makes his Residence, when he honours that University with his Presence.

Archbishop of York.

Then the Lord Archbishop of *York* stood up and said, He apprehended Danger from the Increase of Dissenters, and particularly from the many Academies set up by them, and moved, that the Judges might be consulted what Laws were in Force against such Seminaries, and by what Means they might be suppressed.

Lord Wharton.

The Lord *Wharton* spoke next, and moved, That the Judges might be consulted about the Means of suppressing Schools and Seminaries held by Nonjurors, in one of which a noble Lord of that House had both his Sons educated: Upon which the Archbishop stood up again and said, He supposed he was the Person meant, and therefore he must explain that Matter. He said, his two Sons were taught by Mr. *Ellis*, a sober, virtuous Man, and a Man of Letters, and who had qualified himself according to Law when they were sent to him; but when the Abjuration-Oath was enjoined, that, it seems, he refused it, which, as soon as he was apprized of, he took his Sons from him.

Lord Wharton.

The Lord *Wharton* having made a Reply to this, went on, and said, That altho' he had been born and bred a Dissenter, yet he soon conformed to the Church, when he grew up, and became acquainted with its Doctrine and Discipline; that he was now firmly resolved, by God's Blessing, always to continue in that Church, and would go as far in defending it as any Man: Wherefore if he were now sensible that it was in any Danger, he would be heartily ready in providing Remedies against it; but that, after all the Cry and Expectations they were screwed up to, upon hearing wherein those Dangers consisted, it appeared just as he expected, namely, that it was only repeating the Memorial, which Pamphlet he had carefully read over, but could learn nothing from it. except that the D— of B—, the E— of R—, the

the Earl of *N*——, were out of Place. What these *Anno 4 Anne,*
B's, R's, and N's meant, he could not tell; perhaps there *1705.*
 might be some Charm in them for the Church's Security: But
 if those Letters meant some noble Peers there present, he
 remembered very well, that some of them sat in the High-
 commissioned Court, and then made no Complaints of the
 Church's Danger; but now that we had a Queen, who was
 herself a real Lover of the Church, and had given such En-
 couragement and bountiful Tokens of her Affection for it,
 we must be amused with the Church's Danger: But he con-
 cluded with being of Opinion, that the Church was in no
 Danger.

The Bishop of *Ely* stood up, and moved, that the Judges *Bishop of Ely.*
 also might be consulted what Power the Queen had in visit-
 ing the Universities, complaining of the Heat and Passion
 of the Gentlemen there; which they inculcated into their
 Pupils, who brought the same Fury with them to the
 Parishes, when they came abroad, to the great Disturbance
 of public Charity; that at the Election at *Cambridge* 'twas
 shameful to see a hundred or more young Students, encou-
 raged in hollowng like School-boys and Porters, and cry-
 ing out, No Fanatic, No Occasional-conformity, against two
 worthy Gentlemen that stood Candidates. Then he com-
 plained of the Undutifulness of the Clergy to their Bishops,
 and the Difficulty they had to govern them regularly.

The Bishop of *Litchfield* and *Coventry* made the same Com *Bishop of Litch-
 field and Coven-*
 plaint. He spoke of the opprobrious Names the Clergy
 gave their Bishops, and of the Calumnies they laid on them, *try.*
 as if they were in a Plot to destroy the Church, and had
 compounded to be the last of their Order, and when the Plot
 was ripe, to resign their Bishoprics, and accept a Pension
 for Life. He alleged, that the Church was as well govern-
 ed as it had at any time been; challenged any Body to charge
 the Bishops with any Omission of their Duty, or any Action
 wherein they strained or injured any Body. Then he spoke
 of the Honour he had to suffer in a good Cause, and thought
 that might have protected his Reputation from the Calumny
 of being an Enemy to the Church.

The Bishop of *Bath* and *Wells* also spoke, and complained *Bishop of Bath*
 of the Terms of the High-church and the Low church; that *and Wells.*
 it was an invidious Distinction, tending to set us at Enmity,
 that by High-church People were made to believe a Man in-
 clined to Popery, or, at least, one that endeavoured to carry
 Church-power beyond our Constitution, which he thought
 was great Injustice, the Gentlemen that bore that Character
 meaning nothing more, than to keep up the just Dignity
 and Discipline of the Church. Neither did he believe, that
 the

Anno 4 Anne, the others, called Low-church, had any Designs of lowering or levelling it with Presbytery, as was on the other hand maliciously suggested.

Duke of Leeds. The Duke of *Leeds* stood up, and said, he apprehended the Church was in Danger, and could not be safe without the Act against Occasional Conformity, and that the Queen had, in Discourse with him, declared herself of that Opinion.

Lord Somers. The Lord *Somers* recapitulated all the Arguments on both Sides, added his own Judgment, and ended with a Declaration, that the Nation was happy under a most wise and just Administration, wherein the Public Money was justly applied, the Treasury kept in a most regular Method, and thereby the Public Credit in the highest Esteem, the Armies and Fleets were supplied, and the Success of her Majesty's Arms gave the Nation greater Honour and Reputation, than had been known, and that we had a fair Prospect of bringing the War to a happy Conclusion, to the immortal Honour of the Age, and the inexpressible Benefit and Safety of posterity: Wherefore for Men to raise groundless Jealousies at this time of day, it could mean no less, than an Intention to embroil us at Home, and to defeat all those glorious Designs Abroad.

Church voted not to be in Danger. The Debate at length being over, the Question was put, Whether the Church of *England* was in Danger, or not? And, upon a Division, it was carried in the Negative: No's 61, Yea's 30, the Queen present. Next Day the Lords sent a Message to the Commons, to acquaint them with their Proceedings touching the Church, and desiring their Concurrence to the following Resolve, *viz.* 'Resolved by the Lords spiritual and temporal, and Commons in Parliament assembled, that the Church of *England*, as by Law established, which was rescued from the extremest Danger by King *William III.* of glorious Memory, is now, by God's Blessing, under the happy Reign of her Majesty, in a most safe and flourishing Condition, and whosoever goes about to suggest and insinuate, that the Church is in Danger under her Majesty's Administration, is an Enemy to the Queen, the Church and the Kingdom.'

Concurrence of Commons desired.

This Resolution being carried in the House of Lords, as aforesaid, by so great a Majority, the opposite Side, however, entered the following Reasons for dissenting.

Dissentient'

Protest thereon. 1st, Because we humbly conceive, there may be Dangers to the Church always impending on several Accounts, the Prayers set forth to be used on the solemn Feast-Days, under the Head of a Prayer for Unity, imploring God Almighty's Grace, that every Body may seriously lay to Heart

the great Dangers we are in by our unhappy Divisions, shew Anno 4. Anno;
plainly, that, in the Opinion of the Compilers of the Form
of that Prayer, and in her Majesty's Judgment, who com-
mands it to be used in all the Churches and Chapels throughout
England and Wales, there are very many Dangers.

1705.

2dly, We humbly conceive the Church to be in Danger from
a neighbouring Kingdom, which, tho' under her Majesty's So-
vereignty, during her Life (which God long preserve) hath
not, by any Means, yet been induced, to settle the same Suc-
cession to the Crown, as is established by Law in this King-
dom, in the Protestant Line; but, on the contrary, that Suc-
cession has been abrogated by the Act of Security, which, with
several other Acts, passed in that Kingdom, has been judg-
ed by this House, in the last Parliament, to be dangerous to
the present and future Peace of this Kingdom; and therefore
we may justly fear there are Dangers from hence, both to
Church and State.

3dly, We humbly conceive, there may be very great Dan-
gers to the Church, for want of a Law to prevent any Per-
sons whatsoever from holding Offices of Trust and Authori-
ty, both in Church and State, who are not constantly of the
Communion of the Church established by Law; and there-
fore, on the Account of the unhappy Divisions in the King-
dom in Points of Religion and Divine Worship, as also,
on the Account of the Calamities of this Age, in the too
public and common disowning any Religion at all, the Church
may be in Danger.

4thly, Tho' we have an entire Confidence in her Majesty's
Zeal and Piety to the Church, we dare not, in Duty to her
Majesty and the Service of the Government, condemn all
such as may have Fears, in relation to the Preservation of
the Church, and Safety of the Crown.

5thly, Being sincerely convinced that these Reasons, among
some others mentioned in the Debate, are sufficient to justi-
fy our Fears, we humbly conceive, that it is not a proper
Way to prevent Dangers, by voting there are none.

*Buckingham, Northampton, Carnarvon, Weymouth, Osborn,
Denbigh, George Bath and Wells, Granville, Beaufort,
Winclesea, Nottingham, North and Grey, Anglesea, Cra-
wen, Chandos, Guernsey, Thanet, Scarsdale, Rochester,
Conway, Howard of Escrick, Henry London, Leeds, Guil-
ford, Abingdon.*

I dissent for the first, second, and fourth Reasons,

Haverfham.

The Archbishop of York, and Bishop of Rochester, protest-
ed afterwards.

Anno 4 Anne, December the 14th, Both Houses waited on her Majesty with their joint Vote, That the Church was not in Danger and on the 20th the following Proclamation was published.

Queen's Proclamation about the Danger of the Church.
1705.

ANNE R.

“ W H E R E A S of late several Persons, endeavouring to foment Animosities, and to cover Designs which they dare not publicly own, have falsely, seditiously, and maliciously suggested, the Church of *England*, as by Law established, to be in Danger, at this Time, whereof we thought fit to take Notice in our Speech made at the Opening of this Parliament: And whereas the Lords spiritual and temporal, and Commons in Parliament assembled, have by their humble Address represented to us, that, having taken into Consideration our said most gracious Speech, they had, upon mature Deliberation, come to a Resolution, which they laid before us, assuring us, that, as we had been pleased to express a just Indignation against all such wicked Persons, they will be always ready, to the utmost of their Power, to assist us in discountenancing and defeating their Practices, humbly beseeching us to take effectual Measures for the making the said Resolution public, and also for punishing the Authors and Spreaders of these seditious and scandalous Reports, to the end that all others may, for the future, be deterred from endeavouring to distract the Kingdom, with such unreasonable and groundless Distrusts and Jealousies: We, therefore, at the said humble Request of the Lords spiritual and temporal, and Commons in Parliament assembled, do by this our Royal Proclamation, make public the said Resolution, which follows in these Words:

“ Resolved, by the Lords spiritual and temporal, and Commons in Parliament assembled, that the Church of *England*, as by Law established, which was rescued from the extreme Danger by King *William III.* of glorious Memory, is now, by God's Blessing, under the happy Reign of her Majesty, in a most safe and flourishing Condition; and that whosoever goes about to suggest and insinuate, that the Church is in Danger under her Majesty's Administration, is an Enemy to the Queen, the Church, and Kingdom.

“ And we do hereby, by the Advice of our Privy-Council, declare, that we will proceed with the utmost Severity the Law shall allow of, against the Authors or Spreaders of the said seditious and scandalous Reports. And we do hereby strictly charge and command all and singular our Judges, Justices of the Peace, Sheriffs, Mayors, Bailiffs, and all other our Ministers whatsoever, to take effectual Care for the speedy Apprehension, Prosecution and Punishment of all such

such Persons, who have or shall at any time hereafter offend *Anno 5 Anne,*
herein. And we do hereby further require and command
all our loving Subjects whatsoever, to discover and apprehend all and every Person and Persons whatsoever offending,
as aforesaid, to the end they may be dealt with and proceeded against according to Law. And whereas the said seditious and scandalous Reports have been greatly promoted and spread, by the printing and publishing of a malicious and seditious Libel, entitled, *The Memorial of the Church of England*, humbly offered to the Consideration of all true Lovers of our Church and Constitution: And whereas *David Edwards*, of the Parish of *St. Dunstan's in the West, London*, Printer, is charged on Oath to be the Printer and Publisher of the said Libel, and is now under Prosecution for the same, and on that Account absconds from Justice, and the Author or Authors of the said Libel is, or are not discovered, we do hereby further require and command all our loving Subjects whatsoever, to discover and apprehend the said *David Edwards*, and the Author or Authors of the said Libel, to the end they may be dealt withal, and proceeded against according to Law, &c."

March the 19th, Her Majesty put an End to the Session with a Speech, which see in *CHANDLER's History, Anno 5 Anne, 1705, P. 473*; as likewise an Account of the Treaty for the Union of the two Kingdoms, which was perfected and presented to the Queen, by the Commissioners of both, July 23, 1706.

May the 14th, The Duke of *Marlborough* set out for *Hol- The Summer's land*; and, *August* the 12th, he obtained a complete Victory *Exploits.* over the *French*, commanded by the *Elector of Bavaria* and *Marshal Villeroi* at *Ramillies*; which was followed by a general Revolution in the *Low Countries* in favour of King *Charles*.

In *Italy*, enabled by a Loan of 250,000*l.* from *England*, Prince *Eugene*, after thirty four Marches to join the Duke of *Savoy*, offered Battle to the *French*, who laid Siege to *Turin*; and after two Hours Engagement, in which the Marshal *Marfin* was killed, and the Duke of *Orleans* wounded, utterly defeated them, seized on their Camp, Tents, Baggage, &c. and relieved that Capital.

In *Spain*, King *Charles* was closely besieged in *Barcelona*, by the Marshal *de Theffé* by Land, and the Count *de Thoulouse* by Sea; but was most opportunely relieved by the gallant Earl of *Peterborough* and Sir *John Leake*; the Count *de Thoulouse* not staying till the *English* Fleet appeared in Sight, and the Marshal *de Theffé* decamping with the utmost Confusion a few

Anno 5 Annae, few Days after, and leaving his Ammunition, Stores, Tents, 1706. and even his sick and wounded Men, at the Mercy of the Enemy.



The SECOND * SESSION of the Second Parliament of Queen ANNE

WAS opened by her Majesty, December the 3d, with a Speech to both Houses (to be found in CHANDLER's History, Anno 5 Annae, 1706, Page 45;) in return to which the Lords presented the following Address:

May it please your Majesty,

Lords Address
of Congratulation.

WE your Majesty's most dutiful and obedient Subjects, the Lords spiritual and temporal in Parliament assembled, with Hearts full of Joy, beg leave to congratulate your Majesty, upon occasion of the many great Successes obtained by your Majesty's Arms, and those of your Allies, in all Places, during this wonderful Year. We could not hope for any thing more glorious than the opening the Campaign by the ever memorable Victory gained at Ramillies, under the Command of your Majesty's wise and valiant General, the Duke of Marlborough; and nothing could be more seasonable at the Close of the Campaign, than the complete Victory gained by the Duke of Savoy and Prince Eugene, before the Walls of Turin. The illustrious Consequences of these two Battles, made it impossible for your Enemies to disguise their Losses, and demonstrated to the World, that never any Generals better understood how to make use of their Success. And if we your Majesty's Subjects should not do all that lies in our Power, towards improving the Advantages which the Divine Providence has given to your Majesty, and your Allies, we should shew ourselves unthankful to God, inexcusable to your Majesty, and manifestly wanting to our Country, and the common Cause of Europe.

We cannot sufficiently express the universal Pleasure and Satisfaction of your People, upon the public Declaration which your Majesty, in concert with the States General, made to the Ministers of the other confederate Princes,

tha-

* In the Interval between the Sessions, William Cowper, Esq; was made Lord-Keeper, in the Room of Sir Nathan Wright, some Time after which he was created a Baron, and in 1707 appointed Lord-Chancellor.

that no Negotiations of Peace should be entered into, but ~~Amo 5 Anno~~ 1706.

in conjunction with all the Members of the Grand Alliance. This generous Method will prevent the indirect and dangerous Practices of the common Enemy, will put a Stop to clandestine and corrupt Transactions, and must not only remove all present Jealousies from the Allies, but create in them a lasting Confidence and Reliance on your Honour and Justice.

Your Majesty's Example, and that of the States-General, ought to inspire all the other Allies with a noble Emulation of acting with the like Vigour. If any of them have been failing for the Time past, we hope your Majesty will find proper Means to let them see, that the only right Amends they can make to the Cause of Liberty, is, by doubling their Efforts at this important Conjuncture.

This will be the true Way to obtain such a Peace as all good Men desire, which may secure to your Majesty's Subjects the Protestant Succession, and all the Advantages of Trade and Commerce; may restore the whole Monarchy of Spain to King Charles III. may fix such a Barrier for the States-General (in whose Security we must always think the Interest of England is engaged) as may be to their just Satisfaction, and may procure such Terms and Conditions for all the Allies, as may be just, safe, and honourable; such a Peace as may be durable and lasting, by reducing effectually the exorbitant Power of a Prince whose restless Ambition nothing could satisfy, and who has always despised the Obligations of the most sacred Leagues and Treaties.

Most gracious Sovereign,

We cannot omit to make our most thankful Acknowledgments of our universal Happiness under your just and mild Government, of your true Zeal for the Safety and Honour of the Church of England, of your great Care for the due Administration of Justice, and your tender Regard for the Properties and Liberties of your People; but in a particular Manner we must own, with all Gratitude, your Majesty's Wisdom and Foresight, as well as your Goodness, in your Royal Endeavours to bring to pass an entire and complete Union of your two Kingdoms of England and Scotland. May God Almighty make these your gracious Designs successful; and may your Majesty long reign over us, to see the happy Fruits of them, in the Safety, Tranquillity, Wealth, Honour, and flourishing Estate of your Majesty's united People.

Her

Anno 5 Anne,
1706.

The Queen's
Answer.

Her Majesty's Answer was as follows :

My Lords,

" I Am very much pleased with the many Expressions of
" your Affection for my Service, and of your Zeal for
" the common Cause, in the several Particulars of this Ad-
" dress, which is entirely to my Satisfaction, and I assure
" myself it will have its just Weight both at Home and
" Abroad."

December the 16th, The Lords addressed the Queen to settle
the Honours of the Duke of Marlborough on his Posterity by
Act of Parliament.

The 21st, Her Majesty came to the House of Peers, and
having given the Royal Assent to several Acts, made a Speech,
in which she condescended to * signify, that the particular
Notice taken of the eminent Services of the Duke of Marl-
borough was very agreeable to her, &c.

Honours be-
low'd.

About this Time the Queen created *Henry, Earl of Kent*,
Lord Chamberlain of her Majesty's Household, *Viscount Goderick*, in the County of *Hereford*, *Earl of Harrold* in the
County of *Bedford*, and *Marquis of Kent*. *Robert Earl of Lindsey*, *Lord Great-Chamberlain of England*, *Marquis of Lindsey*, in the County of *Lincoln*: *Evelin, Earl of Kingston*,
Marquis of Dorchester, in the County of *Dorset*: *Thomas, Lord Wharton*, *Viscount Winchendon*, in the County of *Bucks*,
and *Earl of Wharton*, in the County of *Westmoreland*: *John Lord Poulett, of Hinton St. George*, *Viscount Hinton St. George*, in the County of *Somerset*, and *Earl of Poulett: Sidney*, *Lord Godolphin*, *Lord High-Treasurer of England*,
Viscount Rialton, and *Earl of Godolphin*, in the County of *Cornwall*: *Hugh, Lord Cholmondeley*, *Viscount Malpas*, and
Earl of Cholmondeley, in the County of *Cheshire*: *Henry, Lord Walden*, Son and Heir Apparent of the Right Honourable
Henry Earl of Suffolk, *Baron of Chesterford*, in the County of *Essex*, and *Earl of Bindon*, in the County of *Dorset*: The
Lord-Keeper, Lord Cowper, *Baron of Wingham*, in the
County of *Kent*: And, *Sir Thomas Pelham, Baronet*, *Lord Pelham*, *Baron of Laughton*, in the County of *Sussex*.

Debate on the
Earl of Not-
tingham's Mo-
tion, that the
Proceedings
on the Union
may be laid be-
fore the Lords:

The Earl of *Nottingham*, on the 10th of *January*, ac-
quainted the House of Peers, that he had something of great
Consequence to lay before them, and therefore desired, that
they would appoint a Day to receive it, in a full House.
The Lords having named the *Tuesday* following, being the
14th, on which Day the Members, in and about Town, were
sum-

* See the Speech entire in *CHANDLER's History*, Anno 5 Anne,
1706, page 48.

summoned to attend, the Earl of *Nottingham*, in a set Speech, *Anno 5 Anne*,
represented to them, ' That the * Union of the two King-
doms of *England* and *Scotland*, was a Matter of the highest
Importance ; and a Work of so much Difficulty, that all
the Attempts that had been made towards it, in the last
Century, had proved ineffectual ; that the Parliament of
Sculand, having thought fit to secure the Presbyterian
Church-Government in that Kingdom, it became the Wis-
dom of the Parliament of *England*, to provide betimes
against the Dangers, with which the Church, by Law esta-
blished, was threatened, in case the Union was accom-
plished : And therefore he moved, That an Address be presented
to the Queen, humbly to desire her Majesty, that the Pro-
ceedings, both of the Commissioners for the Treaty of Union,
and of the Parliament of *Scotland*, relating to that Matter,
should be laid before them.'

He was seconded by the Earl of *Rochester*, who declared, *Earl of Ro-
chester.*
' He was for an Union, and had been so for twenty Years past ; but that he had a few Doubts in the Matter, and therefore was for entering upon the Debate of that impor-
tant Affair as soon as possible.'

The Duke of *Buckingham* spoke to the same Purpose ; *Duke of Buck-
ingham.*
adding, ' That the Union of both Kingdoms had been upon the Anvil since the Accession of King *James I.* to the English Throne ; and, as it could not be expected that so weighty a Matter, which took up so much Time and Labour before, should now be compleated in a few Days, therefore he was for taking it forthwith into Consideration.'

The Lord High Treasurer answered; ' That this Affair was not yet ripe for them to debate, and that they need *Answer'd by
the Lord Treas-*
not doubt, but that her Majesty would communicate to *Godol-*
the Parliament of *England*, all the Proceedings about the *phin.*
Union, as soon as that of *Scotland* should have gone through
with it.'

The Lords *Wharton*, *Somers*, and *Hallifax*, spoke on the *Lords Whar-*
ton, *Somers*,
Nation, and urged, ' That it was an Honour to this *Hallifax*,
from the Parliament of *Scotland* ; and that then, and not be-
fore, was the proper Time to take the same into Considera-
tion. Upon which the other Party finding they were too
weak to carry the Question, the Earl of *Nottingham*'s Mo-
tion was dropped.

The House of Lords, upon a Motion of the *Archbi-*
hop of Canterbury, ordered a Bill to be brought in for the
Security

* The Articles of which, and the Opposition made to it in Scotland,
in *CHANDLER*'s *Hist.* *Anno 5 Anne*, 1706, from p. 1, to 31.

Anno 5 Annas, Security of the Church of England; which being read a second Time, on the 3d of February, (the Queen and Prince being present) a Question was put, Whether it should be an Instruction, by the Leave of the House, to insert in the Bill, the Act made the 35 Car. II. entitled, An Act for the preventing Dangers which may happen from Popish Recusants: Which was resolved in the Negative, by a Majority of sixty-three Voices against thirty-three. Then another Question was put, That it be an Instruction to the Committee of the whole House, to whom the Bill for Security of the Church was committed, that there should be inserted in the said Bill, as a fundamental Condition of the intended Union with *Scotland*, particular and express Words, declaring, perpetual and unalterable, an Act of Parliament made the 25 Car. II. entitled, An Act for preventing, &c. But this being resolved also in the Negative, occasioned the following Protest:

Protest thereon. ‘ We conceive that this Act doth deserve to be particularly mentioned, and not left to double Constructions; because as it was at first made to secure our Church, then in Danger, by the Concurrence of Papists and Dissenters to destroy it; so they have found by Experience, both in the Reign of King Charles II. and of King James II. that it was the most effectual Means of our Preservation, by removing from their Employments the greatest Enemies of our Church; and particularly in the Reign of the late King James II. the assuming of a dispensing Power, and illegal Practices, by closeting and corrupting the Members of Parliament, were chiefly levelled against the Test Act,’

Northampton, Nottingham, Buckingham, Craven, Thomas Roffe, Guilford, R. Dunelm, Beaufort, Scarsdale, J. Ebor, R. Cestriens, Stawell, Thanet, Anglesea, Howard, Sussex, Weymouth, Granville, Guernsey, North and Grey.

After which their Lordships went thro’ the Bill.

A Debate on the Union. On the 15th, there was a grand Debate about the Treat of Union, the Queen being present. Their Lordships having resolved themselves into a Committee of the whole House and the Bishop of *Salisbury* (Dr. *Burnet*) being called up to take the Chair, the Debate on the first Article was opened by the Earl of *Rochester*, who acquainted the House, he had many Things to object to several of those Articles which, he said, it was all one to him, whether their Lordships would please to receive them now, or when those Articles came more properly under their Consideration.’

Earl of Rochester.

The Earl of *Anglesea* moved, " That the first Article might be postponed, it being impossible for him to give his Vote to it, before he knew, and was thoroughly satisfied, wherein this Union was to consist. Several others were of that Opinion, among whom the Bishop of *Bath* and *Wells* spoke much to the same Effect.

1706.

Earl of Anglesea.
Bishop of Bath
and Wells.

The Earl of *Nottingham* excepted against the Name of *Earl of Nottingham-Britain*, alledging, 'Twas such an Innovation in the *Monarchy*, as totally subverted all the *Laws of England*, and therefore moved, that the Judges Opinion might be asked about it ; wherein he was seconded by several other Lords : Hereupon, the Judges being severally asked their Opinions in that Respect, unanimously declared, 'They could not conceive that it any ways altered or impaired the Constitution of this Realm, whose Laws, they were of opinion, must remain entirely the same, as well after as before the Union, except such as were altogether inconsistent with, and directly contrary thereto.

Lord *Haverham*.

My Lord,

' What my noble Lord (*Rochester*) has mentioned to your Lordships, occasions my standing up ; I find myself under the same Difficulties : I have several things to say to this Matter of the Union, to your Lordships, and 'tis very indifferent to me when I offer them. I have a Right of speaking my Thoughts, and entering my Protest too, to any thing I dislike, and I shall certainly find some time to do so, before this Matter can pass into a Law. I am in your Lordships Judgment, whether you will allow me to speak what I have to say, now.

' My Lords, With what Disposition I come hither, I hope, may be collected by the Motion I made your Lordships last Year, for repealing certain Clauses that were grievous to *Scotland*. I would do any thing that was for the Benefit and Good of both Nations.

' These Articles come to your Lordships with the greatest Countenance of Authority, that I think it is possible any thing can come ; your Commissioners have agreed to them ; the *Scots* Parliament has, with some few Amendments, ratified them ; and the Queen herself, from the Throne, approves of them ; and yet you must give me Leave to say, that Authority, tho' it be the strongest Motive to incline the Will, is the weakest Argument in all the World to convince the Understanding. 'Tis the Argument the Church of *Rome* makes use of, for their superstitious Worship, where there are ten Ave-maries to one Pater-noster ; just as unreasonable as if ten times the Application and Adrefs were made to a *Sne-favourite*, as to the Person of a Sovereign, which is a kind of State Idolatry.

Anno 5 Anne,
1706.

‘ I would not, my Lords, be misunderstood, as if I were against a Union. A federal Union, a Union of Interest, a Union in Succession is what I shall be always for ; nay, were it whether a People inhabiting the same Island, speaking the same Language, and having the same Religion, should be under one and the same Form of Policy and Government, I cannot see how any Man could be against it ; but this is a Matter of a quite different Nature ; it is, whether two Nations independent in their Sovereignties, that have their distinct Laws and Interests, and what I cannot forget, their different Forms of Worship, Church-Government and Order, shall be united into one Kingdom.

‘ An Union made up, in my Opinion, of so many mismatched Pieces, of such jarring, incongruous Ingredients, that, should it ever take effect, I fear would carry the necessary Consequence of a standing Power and Force, to keep us from falling asunder, and breaking in pieces every Moment : For, as my Lord *Bacon* well observes, (whom I take to have been a very great Man, though sometimes the Courtier got the better of the Philosopher) A Unity, says he, that is pieced up by a direct Admission of Contraries in the fundamental Points of it, is like the Toes of *Nebuchadnezzar’s* Image, which were made of Iron and Clay ; they may cleave together, but can never incorporate.

‘ Another Reason why I am against an incorporating Union, is for the sake of the good old *English* Constitution, justly allowed to be the most equal and best poized Government in all the World, the peculiar Excellency of which lies in that well-proportioned Distribution of Powers, whereby the Greatness of the Monarch, and the Safety of the People, are at once provided for ; and it is a Maxim in all Policy, that the surest Way to preserve any Government, is by a strict Adherence to its Principles : So that whilst this Balance of Power is kept equal, the Constitution is safe ; but who can answer what Alteration so great a Weight, as fifty-one *Scots* Members, and those too returned by a *Scots* Privy-Council, when thrown into the Balance, may make ?

‘ Besides, my Lords, I must own I am apprehensive of the Precedent, and know not how far it may be carried hereafter, or what Alteration future Parliaments may think fit to make ; it is evident, by the two and twentieth Article, that above a hundred *Scots* Peers, and as many Commoners, are excluded from sitting and voting in the *British* Parliament ; who perhaps as little thought of being so a Year or two ago, as any of your Lordships do now ; for they had as much Right by Inheritance, of sitting there, as any one Lord in this House has of sitting here ; and that Right too,

as well and as strongly fenced and secured to them by the Aano 5 Anne, fundamental Laws of their Kingdom, by claim of Right, 1706. and Act of Parliament, which made it Treason to make any Alteration in the Constitution of that Kingdom ; and yet have not they lost their Privilege ? And what one Security has any Peer of *England*, by the Laws of this Land, to his Right and Privilege of Peerage that those Lords had not ? My Lords the Bishops have once been voted out of this House by the temporal Lords already, and who knows what Question may come hereafter : I will venture my Life in Defence of the Church of *England*, and yet, at the same time own myself an Occasional Conformist. But if, my Lords, the Bishops, will weaken their own Cause so far as to give up the two great Points of episcopal Ordination and Confirmation, if they will approve and ratify the Act for securing the Presbyterian Church-goverment in *Scotland*, as the true Protestant Religion and Purity of Worship, they give up that which has been contended for between them and the Presbyterians these thirty Years ; and which I will undertake to prove to my Lords, the Bishops, has been defended by the greatest and learnedest Men in the Church of *England*. I hope, when 'tis proper, my Lords will please to give some Light to one who desires Instruction, that I may not ignorantly do any thing in this Matter.

There is another Reason why I am against this Union, because I cannot think it an entire Union ; the exempted Articles, I mean the twentieth Article, whereby heretale Offices and Superiorities are reserved ; and also the one and twentieth ; both which *Oliver*, by an Act of State, was so wise as to abolish ; especially their Act for securing their Presbyterian-Church Government, and General Assemblies, seem to me like those little Clouds in a warm, calm Summer's Day, that are generally the Seeds and Attractives of approaching Tempests and Thunder. I the rather take Notice of these, because tho' the Articles of Union are ratified by the *Scotch* Parliament, yet the Bulk and Body of that Nation seem to be against them. Have not the Murmurs of the People there been so loud as to fill the whole Nation ? And so bold too, as to reach even to the Doors of the Parliament ? Has not the Parliament itself thought fit to suspend their beloved Clause in the Act of Security, for arming their People during the Session ? Nay, has not the Government, by Advice of Parliament, set out a Proclamation, which I have here in my own Hand, pardoning all Slaughter, Bloodshed, Maiming, &c. that is committed upon any who are found in any Tumults there, and discharging all Prosecution for the future ? I do not mention this to find fault

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with any thing that is done in *Scotland*, but only to shew to your Lordships, that when such an unusual Proclamation as this is set out by Advice of Parliament, and cannot stay the Forms of a Law, when we know that, upon extraordinary Occasions, if it be but to grace a Compliment, a Bill may be read three times in one Day; sure, my Lords, it shews a very great Ferment that requires so very speedy an Application. After all, has not what we desire, I mean their being upon the same foot of Succession with us, been offered without this Union? In short, my Lords, I think an incorporating Union one of the most dangerous Experiments to both Nations; in which, if we happen to be mistaken, however we may think of curing Things hereafter, the Error is irretrievable.

‘ My Lords, this is the last time that I believe I shall ever trouble your Lordships in an *English* Parliament, give me Leave therefore to say but one Word.

‘ In King *Charles* the First’s Time, the Cavaliers were the Persons that ventured their Lives, and lost their Estates to serve him. And in King *Charles* the second’s Time they were forgot, and left starving. At the Restoration, the Presbyterians were as zealous for that as any Men whatever, and none were more prosecuted all his Reign. Towards the latter End of that Reign, the Bishops threw out the Bill of Exclusion, and King *James* put them into the Tower. At the Revolution, the *Londonderry* Men, &c. were the Persons that made the first and noblest Stop to King *James* in *Ireland*; and I myself have fed some of them at my own Table, when they were starving with the greatest Commendations and Promises in their Pockets; which I have seen under King *William*’s own Hand. In the last Reign, every body knows who they were that made their most constant Court at St. *James*’s; and we see in what Favour they are at this present.

‘ Now there is a great deal of Zeal for this Union, I wish from my Soul that the Advantages may attend it, of Tranquillity and Security, Power, Peace and Plenty, as is intended by it; but yet it is possible Men may be mistaken, I won’t say they will ever repent of it; but I will take Leave to say what I have formerly said in this Place, that what has been, may be.’

The Debate being over, the Question was put, Whether the Consideration of the first Article of the Treaty of Union should be postponed till all the other Articles had been examined: But the Negative carried it by a Majority of seventy-two Voices against twenty-two; and so the first six Articles were read and approved, and the Consideration of the rest adjourned.

The six first Articles approved by the Lords,

adjourned to the 19th, when the Lords resumed the Consideration of the Treaty.

The Lord *North* and *Grey* observed, with relation to the ninth Article, ' the small and unequal Proportion *Scotland* was to pay to the Land-Tax, urging, that *Wales*, as poor a Country every whit as that, and of a much lesser Extent, paid to the full as much again, and yet sent not much more than half the Number of Representatives to Parliament, which were granted to *Scotland*, and for that Reason his Lordship said, he could not agree to that Article.'

He was answered by my Lord *Hallifax*, ' That the Number of Representatives was no Rule to go by, since there was the County of *Cornwall* of *England*, that paid not near so much towards the Land-Tax as that of *Gloucester*, and yet sent almost five times as many Members to Parliament as the latter did. That it was very true the Quota of *Scotland* was very small and unequal, in comparison to what was paid in *England*; but that the *English* Commissioners could not induce the *Scotch* to agree to any more, upon Account of several Impossibilities on their Side; that we could not expect to reap the like Advantages of every Article of the Treaty; and that if they had the better of us in some few, we were infinitely recompensed by the many Advantages which did accrue to us from the whole.'

The House divided again on this Article, there being twenty contented with it, against twenty-three not contents, and so having run over the four following ones, the Consideration of the rest was further adjourned to the 21st, when (the Queen being present) the Debate chiefly run on the fifteenth Article.

The Earl of *Nottingham* observed, it consisted of two Parts, *viz.* a certain Grant of Money, and the Application thereof, in reference to which he said, ' That it was highly unreasonable, that the *Scots*, who were by the Treaty let into all the Branches of our Trade, and paid so little towards the Support of the Government, and of a most expensive and bloody War, should moreover have an Equivalent of 398085 £ given them for coming into that Treaty. He insisted much upon that Argument, and took Notice, as to the Disposal of the Equivalent, that that Part of it which was given to the *Darien* Company, was so ordered, as that it might be swallowed up by a few Persons, without any particular Regard to the indemnifying every private Sufferer in that unhappy Enterprise.'

The Lord *Hallifax* answered, ' That this Equivalent could not be looked upon as a Gift, but as an actual Purchase

Anno 5 Anne,
1706.

Lord North and Grey.

Lord Hallifax.

The 9th, 10th,
11th, 12th and

13th Articles

approved.

Anno 5 Anne, 1706. chase of the *Scots* Revenue and Customs, which, by this Union, were to be applied to the Payment of the Debts of *England*; and that they were no more Gainers by it, than we were here by the Sale of Annuities at 15 or 16 Years Purchase: That as to the Disposal of the Money, it being their own, it was but reasonable they should have the Liberty of applying the same, as they thought most convenient, the *English* Commissioners being no ways concerned therein; whose Care, nevertheless, and great Prudence had been such, that they made Provision it should not be disposed of, but by certain Commissioners who should be accountable for the same to the Parliament of *Great-Britain*.

The 15th, 16th, 17th, 18th and 19th Articles approved. Earl of Thanet. Their Lordships this Day proceeding as far as the 19th Articles, adjourned to the 24th, when (the Queen being still present) the Earl of *Thanet*, on the 20th Article, acquainted their Lordships, ' That himself having an heretale Office here in *England*, by being perpetual Sheriff of the County of *Westmoreland*, * he would be glad, with their Lordships leave, to have the Opinion of the Judges, about the Preservation of that his Right, there being no Provision made in this Article for heretale Offices in *England*.'

Marquis of Lindsey. The Lord great Chamberlain (Marquis of *Lindsey*) seconded him in that Motion, saying, ' He had the Honour likewise of having such an heretale Office, as was then in Question, about the Preservation whereof he had the very same Doubts and Scruples with the noble Peer that spoke last: Whereupon it was agreed, that the Judges should deliver their Opinion about it, which they accordingly did, from the *puisne* Judge, to the Lord Chief Justice, whose Answers were near the same, with what they had declared to the House, to be their Opinion, with respect to the first Article.

Earl of Rochester. The Earl of *Rochester*, after reading the 22d Article, declared, ' He looked upon it as incongruous, contradictory to, and inconsistent with itself; that there were 16 Peers to be returned to the House of Lords in the Parliament of *Great Britain*, who were Peers and no Peers: That being all Peers by Right of Inheritance, they were nevertheless made here elective, he took to be divesting them of their Peerage; because not being sure of being always elected to every Parliament of *Great Britain*, they consequently must lose, when left out, the Benefit of sitting in Parliament, what was ever deemed an inseparable Right of the Peerage: That the rest of the Nobility of *Scotland*, to the Number of above 100, were thereby manifestly injured; and that, for his Part, he wondered

* The Earl of *Thanet* was hereditary Sheriff of *Westmoreland*, as being descended from the Family of the *Cliffords*, and they again from the *Viponts*.

wondered very much, how the *Scots* came to accept of such ^{Anno 5 Anne,} unreasonable Conditions ; or how their Lordships could entertain the Thoughts of permitting such Peers by Election to fit among them.

The Lords *Nottingham*, *North* and *Grey*, &c. very much Lords Nottingham enforced this Topic, adding, ' That as one might very well have, North and suppose, that those *Scots* Peers would be such as were addicted Kirk, it might prove of a dangerous Consequence to the Church of *England*. '

The Earl of *Wharton* replied, ' That tho' they were all Earl of Whar- never so much of the Kirk Party, yet there was no Reason to fear, but they would also be very well disposed for the Church of *England*, and stand up in its Defence on all Occasions ; since there were even some sitting amongst their Lordships who would venture their Lives for the Church of *Eng-* land, and yet openly declared themselves to be at the same time Occasional Conformists.'

The Lord *Haversham*, rightly judging he was hinted at *Lord Haversham*, by that noble Peer, stood up to inform the House, what he understood by an Occasional Conformist ; (in which Explanation he appeared somewhat gravelled :) For after having made a long Encomium on the Episcopal Order, which he took to be the best and most conformable to primitive Christianity, he gave no less Commendation to all the Protestant Churches Abroad, and to the Kirk of *Scotland* itself, in particular ; which, he said, was a true Protestant Church.

The Bishop of *Bath* and *Wells*, after begging Pardon for troubling their Lordships on this Account, and saying that if he spoke any thing out of the way, he was under their Correction ; ' That, for his Part, he was altogether against the Union, which he could wish with all his Heart had been compleated an hundred Years ago ; because, said he, all the Ferment and Discord which were likely to ensue upon it, would by this time have had their Course : That he could no better compare it, than to the mixing together strong Liquors, of a contrary Nature, in one and the same Vessel, which would go nigh to be burst asunder by their furious Fermentation : That as their Bench was always reckoned the dead Weight of the House, so those sixteen Peers being admitted to sit therein, would more effectually make it so, especially in any future Debates relating to the Church, towards which they could no ways be supposed to be well affected ; and therefore he was humbly of Opinion, that some Provision might be made for debarring them of their Vote in any Church Matter that should hereafter come in Agitation.'

The Lords *Somers*, *Hallifax*, and others, made very per- ^{Lords Somers} tent *Answers* to those Objections, after which the Debate and *Hallifax* ended

Anno 5 Annas, 1706. ended in a general Division of the House, there being seventy one Contents for the twenty second Article, against twenty two Not contents.

Earl of Arran.

After the reading the last Article, the Earl of *Arran* moved that the Judges Opinion might be asked, what Laws would be repealed by this Union, and what would remain in Force, but that Motion was rejected: Upon which the Earl of *Nottingham* stood up and begged their Lordships Pardon for having troubled them almost to every Article, urging there were such material Objections occurring to his Thoughts, as in Conscience he thought himself obliged to lay before the House: That as Sir *John Maynard* made this Compliment to the late King, at the Revolution, that having buried, upon account of his great Age, all his Cotemporaries in *Westminster-Hall*, he was afraid, if his Majesty had not come in that very Juncture of Time, he might have likewise out-lived the very Laws themselves; so, if this Union did pass, as he had no Reason to doubt but it would most certainly, he might with as much Reason, and as justly affirm, he had out-lived all the Laws and the very Constitution of *England*; concluding with a Prayer to God, to avert the dire Effects which might probably ensue from such an incorporating Union.

The Treaty of Union approved by the Lords. Three Days after, the Bishop of *Sarum* reported to the House of Lords, the Resolutions of their grand Committee, for approving the Articles of Union, which were agreed to by a great Majority; but several Peers made and entered the following Protest.

Protest thereon.

Dissentient'

We dissent to every one of the twenty five Resolutions.

Granville, Haverham, Stawell.

I dissent to the four last Resolutions, having not been present at the passing the others.

Geo. Bath and Well.

I dissent to every one of the twenty five Resolutions, except the second.

Beaufort.

I dissent to the first, fourth, fifth, sixth, ninth, fifteenth, eighteenth, nineteenth, twenty first, twenty second, and twenty fifth Resolutions.

Abingdon.

Dissentient' To the Ninth Resolution.

Because we humbly conceive the Sum of 48000*l.* to be charged on the Kingdom of *Scotland*, as the Quota of *Scotland*, for a Land-Tax, is not proportionable to the 4*s.* Aid, granted

granted by the Parliament of *England*; but if, by Reason of ^{Anno 5. Anno.}
 the present Circumstances of the Kingdom, it might have
 been thought it was not able to bear a greater Proportion,
 at this time, yet we cannot but think it unequal to this
 Kingdom, that it should be agreed, that whenever the 4.
 Aid shall be enacted by the Parliament of *Great-Britain*, to
 be raised on Land in *England*, that 48,000*l.* now raised on
 Scotland, shall never be increased in Time to come, tho' the
 Trade of that Kingdom should be extremely improved, and
 consequently the Value of their Land proportionably raised,
 which in all probability it must do, when this Union shall
 have taken Effect.

1706.

North and Grey, Rochester, Howard, Leigh, Guilford.

Dissentient. To the 15th Resolution.

Because we humbly conceive nothing could have been
 more equal on this Head of the Treaty, than that neither
 of the Kingdoms should have been burdened with the Debts
 of the other, contracted before the Union; and if that Pro-
 posal which we find once made in the Minutes of the Treaty,
 had taken Place, there would have been an Occasion to
 have employed the Revenues of the Kingdom of *Scotland*
 towards the Payment of the Debts of *England*, those Reve-
 nues might have been strictly appropriated to the Debts of
 the Kingdom, and to any other Uses within themselves as
 should have been judged requisite, and there would have been
 no need of an Equivalent of very near 400,000*l.* to be
 raised on *England*, within this Year, for the Purchase of
 those Revenues in *Scotland*, which, however it may prove to
 be but a reasonable Bargain, upon a strict Calculation, there
 does not seem to have been a Necessity just now to have raised
 so great a Sum, when this Kingdom is already burdened
 with so vast ones, for necessary Charges of the War.

Rochester, North and Grey, Guilford, Leigh.

Dissentient. To the 22d Resolution.

Because we humbly conceive, in the first place, that the
 Number of fifteen Peers of *Scotland*, is too great a Propor-
 tion to be added to the Peers of *England*, who very rarely
 consist in more than an hundred attending Lords, in any one
 Session of Parliament, and for that Reason we humbly app-
 rehend, such a Number as fifteen may have a very great
 Sway in the Resolutions of this House, of which the Conse-
 quence cannot now be foreseen.

In the second place, we conceive the Lords of *Scotland*,
 who by virtue of this Treaty are to sit in this House, being
 not qualified as the Peers of *England* are, must suffer a Dimi-
 nution of their Dignity to sit here on so different Founda-
 tions;

Anno 5 Anne, tions; their Right of sitting here, depending entirely on an
 1706. Election, and that from time to time, during the Continu-
 ance of one Parliament only; and at the same time, we are
 humbly of Opinion, that the Peers of *England*, who sit here
 by Creation from the Crown, and have a Right of so doing
 in themselves or their Heirs, by that Creation for ever, may
 find it an Alteration in their Constitution, to have Lords
 added to their Number, to sit and vote in all Matters brought
 before a Parliament, who have not the same (Right) of their
 Seats in Parliament, as the Peers of *England* have.

Buckingham, North and Grey, Leigh, Rochester, Guilford.

We dissent to the Resolution of passing the last Article,
 because there being no Enumeration of what Laws are to be
 repealed, it is conceived, too great a Latitude of Construc-
 tion thereupon is left to the Judges.

Rochester, Leigh, North and Grey, Guilford.

A Rider offered to the Bill of Union by the Lord North and Grey. *March the 1st, The Commons sent up a Bill for uniting the two Kingdoms, by Mr. Compton, to the House of Lords, who gave it a quick Dispatch; but, upon reading it the third time, the Lord North and Grey offered the following Rider to be added to it, viz. 'Provided always that nothing in this Ratification contained, shall be construed to extend to an Approbation or Acknowledgment of the Truth of the Presbyterian Way of Worship, or allowing the Religion of the Church of Scotland, to be what it is stiled, the true Protestant Religion.'*

But, after a Debate, the Question being put, Whether the said Rider should be read a second time? It was carried in the Negative, by a Majority of fifty-five Voices against nineteen.

Dissentient

*Beaufort, Buckingham, North and Grey, Anglesea, Winchel-
 sea, Northampton, Abingdon, Nottingham, Scarsdale, Geo.
 Bath and Wells, Thanet, Granville, Starwell, Guernsey,
 Weymouth, Guilford, Leigh.*

Protest against the Ratification of the Union. Then the Question was put, Whether this Bill should pass? Which was resolved in the Affirmative, by a great Majority. The Peers who entered their Dissent were these that follow:

Dissentient

*Nottingham, Anglesea, Thanet, Winchelsea, Northampton,
 Scarsdale, Weymouth, Guernsey.*

Because the Constitution of this Kingdom has been so very excellent, and therefore justly applauded by all our Neighbours for so many Ages, that we cannot conceive it prudent

prudent now to change it, and to venture at all those Alterations made by this Bill, some of them, especially, being of such a Nature, that, as the Inconvenience and Danger of them (in our humble Opinion) is already but too obvious, some think it more proper and decent to avoid entering further into the particular Apprehension we have from the passing of this Law.

1707.

Beaufort, Buckingham, Starwell, Guilford, Granville.

This important Bill received the Royal Assent March the 6th, at which Time her Majesty made a Speech to both Houses, and they presented a joint Address in return; both of which are to be found in CHANDLER's *Hist. Anno 6 Annæ, 1706, Page 59*, as is likewise the Queen's Speech at the Close of the Session, Page 69.

With regard to our Foreign Affairs, tho' the Elector of *Affairs Abroad*, *Bavaria* had, in a Letter to the Duke of *Marlborough*, proposed, in the Name of the ~~most~~ Christian King, to treat of a Peace, no such Thing ensued: And tho' the War was still carried on, the two grand Armies in *Flanders* faced one another the whole Summer, and at last broke up without performing any thing worth Notice. An Attempt was besides made on *Toulon*, which did not succeed. The *French* carried all before them on the *Rhine*: And in *Spain*, by the Battle of *Almanza*, King *Charles* was reduced to the single Province of *Catalonia*.

April th' 29th, Her Majesty had issued out her Royal Proclamation, containing her Declaration, that the Parliament of *England* then in being, and the sixteen Peers and forty five Commons chosen by the last Parliament of *Scotland*, should constitute the first Parliament of *Great Britain*, which by another Proclamation issued out not long after, was to meet at *Westminster* on the 23d of *October* following.

Accordingly on that Day

The First Parliament of GREAT BRITAIN

MEET at *Westminster*, and thirteen of the *Scotch* Peers were admitted to their Places, being introduced each of them by two *English* Peers of the same Rank, and Now. the 6th her Majesty made a Speech to both Houses, which see in CHANDLER's *Hist. Anno 6 Annæ, 1707, Page 70.*

It was expected, according to Custom, that the Lords Debate on the would have begun with an Address of Thanks to the Queen; but when her Majesty's Speech came first to be consider'd, the Earl of *Wharton* made an elaborate Harangue, wherein, Earl of Whart among other things, he took notice of the great Decay of Trade, and Scarcity of Money. He was seconded by the Lord *Somers*.

Anne 6 Anne, Lord Somers, who likewise enlarged upon the ill Condition
 1707. and late Mismanagements of the Navy : So that when the
 Earl of Stamford moved for an Address to her Majesty, to
 return her Thanks for her most gracious Speech, he was op-
 posed by the Duke of Buckingham, the Earl of Rochester,
 Duke of Buck-
 inham. and the Lord Guernsey, who said, they ought, in the first
 Earl of Roche-
 ster place, to consider the State of the Nation. Upon which it
 Lord Guernsey. was order'd, that the State of the Nation should be taken into
 Consideration on the *Wednesday* following, in a Committee of
 the whole House. Accordingly, the Lord Herbert of Cher-
 bury, being Chairman, a Petition given in by the two Sheriffs
 of London, and subscribed by above two hundred of the most
 eminent Merchants in the City, was read, complaining of the
 great Losses they had lately sustained at Sea, for want of
 Convoys and Cruizers, and begging a speedy Remedy. Af-
 ter the reading of this Petition, which was presented to the
 Committee by the Earl of Wharton, his Lordship began the
 Debate, by laying open the miserable Condition of the Na-
 tion, and the great Decay of Trade. Several other Peers
 spoke to the same Effect, and, among the rest, the Lord
 Haverfham as follows :

My Lord Herbert,

Lord Haver-
 sham. ‘ I was so unfortunate as not to be in the House when your
 Order was moved for, but thought it my Duty to pay Atten-
 dance upon so extraordinary Occasion. I know it is generally
 look'd upon as a Mark of great Weakness and Imprudence,
 to attempt Impossibilities : That Man would scarce be thought
 in his right Senses, that should endeavour to stop the Tide
 at Gravesend with his Thumb ; and not rather suffer it to
 take its own Course, as knowing that it will as surely have
 its Ebb, as it will its Flux ; but yet there are some Cases
 wherein the universal Practice of Mankind shews the Mis-
 take of this Maxim. Who is there, that, seeing his Parent
 languishing, and in an irrecoverable Consumption, would
 not think it his Duty to give him all the Assistance in his
 Power, tho' he was morally certain, all his Endeavour
 would prove ineffectual, and the fatal Hour was just ap-
 proaching ? Nay, does not every Man endeavour to pre-
 serve his own Life, while, at the same time, he knows, that
 Death itself is most unavoidable ?

‘ This I take to be the present Case of *England* (I ask
 your Lordship’s Pardon, that I have not yet forgot that be-
 loved Name) I mean *Britain*. Our Condition is very low
 and desperate, and yet I think myself obliged to do all
 I can towards the helping of a poor sinking Island, tho’ I am
 convinced, at the same time, it will prove very insignificant

*My Lords, The two Things you have now under your
 Consideration*

Confederation, your Fleet, and your Trade, have so near a ^{Anno 6 Anne,}
 Relation, and such mutual Influence upon each other, they
 cannot well be separated : Your Trade is the Mother and
 Nurse of your Seamen : your Seamen are the Life of your
 Fleet, and your Fleet is the Security and Protection of your
 Trade, and both together are the Wealth, Strength, Secu-
 rity and Glory of *Britain*.

‘ And this is so manifest, that thos: who have written
 upon these Subjects, whether Foreigners, or among our-
 selves, have owned it, which makes it astonishing, that a
 Thing so clear and evident, and wherein our Interest and
 Safety does so much consist, should be postpon'd to any for-
 eign Consideration whatsoever, wherein we are less con-
 cerned : But we are so unhappy, as to struggle with so many
 complicated Difficulties, that what is proper for one thing,
 is prejudicial to another.

My Lords,

‘ I must make the same Apology for myself as that noble
 Lord did (the Earl of *Wharton*) who first began this Debate ;
 though I may speak very plainly, it is with a very honest In-
 tention of Service, and a very real Sense of our great Losses
 and Misfortunes. His Lordship has spoke so very well, and
 so fully too to these Points, that whatever I can say upon the
 same Subject, will, after what has been said by him, come
 from me with a very ill Grace, yet give me leave, my Lords,
 to speak a Word or two.

‘ Your Disasters at Sea have been so many, that a Man
 scarce knows where to begin. Your Ships have been taken
 by your Enemies, as the *Dutch* take your Herrings, by Shoals,
 upon your own Coasts ; nay, your Royal Navy itself has not
 escaped : And these are pregnant Misfortunes, and big with
 innumerable Mischiefs ; your Merchants are beggard', your
 Commerce is broke, your Trade is gone, your People and
 Manufactures ruined, the Queen has lost her Customs, and
 the Parliament must make good the Deficiencies ; while in
 the mean time our Allies have an open and flourishing Trade,
 and our Enemies make use of both our own Ships and Sea-
 men too against us.

‘ There is yet a further Grievance, when, through a
 thousand Difficulties and Dangers, the honest Trader has
 brought home some small Effects, he is fallen upon, and op-
 pressed by vexatious and unjust Prosecutions : I mention
 this with relation to the Union, and shew, that though I
 was always against it, yet since it is made, I am for keeping
 firmly and exactly to it.

‘ My Lords, the Face of our Affairs is visibly changed
 in the Space of one Year's Time, and the Temper of the Na-
 tion

Anno 6 Anne,

1707.

tion too. Formerly Men stifled their Misfortunes, and were afraid of whispering them out for fear of being overheard and undone. Now, it is hard to stop their Mouths, or keep them within any Bounds, the moving Objects of Sorrow we meet with every where, the Tears of the Fatherless, and Cries of the Widows, have raised both a Compassion for the Distressed, and Resentment and Indignation against the Authors of these Misfortunes; and the very Flames which of late have flown abroad, no body knows from whence, and Papers which have been cryed in your Streets, are all Marks of the great Ferment the Nation is in.

My Lord, you are now upon the great Enquiry, by what Ways and Persons, we have been brought into this miserable Condition; I think it very indifferent which way you proceed. It seems reasonable that those Lords who first moved this Order, should put it into what Method they please; but I must take leave to say, that, begin where you will, if you do not end with the Ministry, we shall be in a worse Condition, in my Opinion, than we were before.

As to the Admiralty, if the Prince's Council have committed any Fault, it is very fit they should have what they deserve, but I hope no Persuasion will prevail with the Prince himself to lay down that Commission. The Navy I think is safer in his Hands, than in any other Man's whatsoever; and I'll give your Lordship my Reason for it. He has Advantages no other Person can pretend to: He owes not his Commission to the Favour of any great Minister whatsoever, nor is he within the Reach of their Power; he stands upon a much more unshaken and firm Foundation; and if there be any Mistake, it is impossible to be the Effect either of the Fear, or the Anger of a great Minister, or a Care to please him.

My Lord, I take the Root of all our Misfortunes to be in the Ministry; and without a Change of the Ministry, in my Opinion, no other Remedy will be effectual: It may perhaps be told by some Lord, that I arraign the Ministry. I know that is not proper here, yet every Lord has Liberty of speaking his Thoughts freely, and taking notice of any thing he thinks a Grievance to the Nation: And it is under this Notion of Complaint, and from a Sense of our miserable Condition, that I say this to your Lordships; and if I were not confident I stand upon sure Ground, I should not venture thus far; but I have my Justification in my Hand. And now, my Lords, it is fit I should prove what I say.

Should I mention the Breach of the first, fourth, and last Articles of the Union, I am within your Order, and those Lords

Lords who serve at present for the North Part of *Britain*, I ^{Anno 6 Anne;} am confident, have heard of a Complaint and Address of the Royal Boroughs; and I might remember the Disappointments we have met with in *Spain*; but I hope those two Points will be some time or other consider'd. I'll therefore keep myself for Proof strictly to your Petition, and I think nothing is more evident than that your Ministry has been the Cause of these Misfortunes. And the Argument which convinces me of it is drawn from an Address of your Lordships in 1704, which I have in my Hand. I know before whom I speak, the Queen is a Princess of that consummate Wisdom, as not to do any thing without the Advice of her Ministry; your Lordships did then most humbly advise and address her Majesty, that particular Care might be taken of those two Points, none but those that have her Majesty's Ear could prevail to the contrary, and the want of following your Lordships Advice has lost the Nation near ten Millions since; and therefore it evidently follows, that your Ministry have been the Occasion of these Losses.

' In short, my Lords, for I'll trouble you no farther; let our Misfortunes be skin'd over as they will, if they fester and throb, and are foul at bottom, they will certainly break out with incurable Rage and Fury.'

But notwithstanding all his Lordship's Eloquence, all these Complaints ended in Smoke.

December the 18th, The Queen came to the House of Peers, and having given the Royal Assent to several Bills, made a * Speech to both Houses, signifying principally, that she should look upon those who best assisted her in bringing the War to a happy Conclusion, as the most proper Objects of her Favour and Encouragement.

And the next Day ensued a long and memorable Debate in the House of Lords, in relation to the Affairs of *Spain*, the Queen being present, *incognita*, till five of the Clock in the Afternoon. The Earl of *Rochester* spoke first, and having commended the Earl of *Peterborough*'s Courage and Conduct, and enumerated his Services, said, ' It has been a constant Custom, that when a Person of Rank, that had been employed Abroad, in so eminent a Post as his Lordship had, returned Home, he had either Thanks given him, or was called to an Account: Urging, that the same ought to be done in relation to the Earl of *Peterborough*.'

The Lord *Hallifax*, who spoke next, enlarged likewise on Lord *Hallifax*, the Earl of *Peterborough*'s successful Services, but cunningly put off the returning him Thanks, till the whole Tenor of his Conduct had been examined, than which the Earl himself professed, he had nothing more at heart. The

* See this Speech entire in *CHANDLER*'s History, Anno 6 Anne, 1707, Page 75.

anno 6 Anne,

1707.

 Lord Haverham.

Earl of Peterbo-

sough.

Earl of Rochef-

Earl of Notting-

Duke of Marl-

Earl of Rochef-

The Lord *Haverham* was not silent: But having highly extolled my Lord *Peterborough*'s Valour, Skill, and Successes, made a side-wind Reflection on the Earl *Galloway*, saying, ' It was no wonder our Affairs in *Spain* went so ill, since the Management of them had been entrusted to a Foreigner.' Hereupon several Members shewed the Necessity of carrying on the War, till the whole Monarchy of *Spain* was recovered, and King *Charles* seated on his Throne; and among the rest the Earl of *Peterborough* said, ' They ought to give the Queen nineteen Shillings in the Pound, rather than make Peace upon any other Terms, adding, That if it were thought necessary, he was ready to return to *Spain*, and serve, even under the Earl of *Galloway*.'

This naturally brought on the Consideration of Ways and Means to retrieve the Affairs of *Spain*, in relation to which the Earl of *Rochester* said, That we seemed to neglect the principal Business, and mind only Accessories; adding, he remembered the Saying of a great General, the old Duke of *Schomberg*, *wiz.* ' That the attacking *France* in the *Netherlands*, was like taking a Bull by the Horns.' And therefore his Lordship proposed, ' That we should stand on the defensive in *Flanders*, and send from thence 15 or 20,000 Men into *Catalonia*.' That noble Peer was seconded by the Earl of *Nottingham*, who complained of *Spain* being in a manner abandoned.

But the Duke of *Marlborough* undertook to shew, tho' with some Warmth, the Danger of such an undigested Council, and the Necessity of augmenting, rather than diminishing our Forces in *Flanders*. The two chief Reasons his Grace urged were, ' 1st, That most of the Enemies strong Places there, might be kept with one Battalion in each; whereas the great Towns of *Brabant*, we had conquered, required twenty times that Number of Men for their Preservation. 2^{dly}, That if our Army in the *Netherlands* was weakened, and the *French*, by their great Superiority, should gain any considerable Advantage, which it was not improbable they might, the discontented Party in *Holland*, who were not a few, and bore with Impatience the necessary Charges of the War, would not fail crying aloud for Peace.'

Hereupon the Earl of *Rochester* said, ' He wondered that noble Peer, who had been ever conspicuous for his Calmness and Moderation, should now be out of his Temper; adding, that there being an absolute Necessity to succour *Spain*, his Grace would oblige their Lordships, if he would let them know, where they might get Troops to send thither; and the more, because the Earl of *Peterborough* had that very Day assured them, that he had heard Prince *Eugene*

say,

say, That the *German* Soldiers had rather be decimated than Anno 6 Anno, sent into *Spain*.

1707.

The Duke of *Marlborough* answered, for the Cause of *Spain*, having shewn some Warmth, by saying, ' The Thing was of too great Importance to be spoken of without Concernment: ' And as for the Question proposed by the Earl, he added, ' That altho' it was improper to disclose secret Projects in so great an Assembly, (to which that Day many Strangers had been admitted, by the Favour of the Queen's Presence) because the Enemy would not fail being informed of them; yet, to gratify their Lordships, he might assure them, that Measures had been already concerted with the Emperor for the forming an Army of 40,000 Men, (whom he specified) under the Command of the Duke of *Savoy*, and for sending powerful Succours to King *Charles*; adding, it was to be hoped, that Prince *Eugene* might be prevailed with to go and command in *Spain*, in which case the *Germans* would gladly follow him thither. The only Difficulty which his Grace said might be objected against this Scheme, was the usual Slowness of the Court of *Vienna*; to which Purpose he took Notice, that if the 7000 *German* Recruits, which the Emperor had promised for the Army in *Piedmont*, had arrived time enough, the Enterprize against *Toulon* might have been attended with Success: But that it was to be hoped; and he durst engage his Word for it, that, for the future, his Imperial Majesty would punctually perform his Promises.' Whéreupon the Debate ended.

The same Day their Lordships resolved, That no Peace could be safe or honourable for her Majesty, or her Allies, if *Spain* and the *Spanish West-Indies* were suffered to continue in the Power of the House of *Bourbon*. They also agreed upon an Address to her Majesty, that she would use pressing Instances to the Emperor to send powerful Succours to *Spain*, and to use his utmost Power and Interest for strengthening the Army on the *Rhine*, which was now happily put under the Command of the Elector of *Hanover*. The Commons joined in this Address, and the Queen answered, December the 23d, " She was fully of their Opinion, that no Peace could be honourable or safe for them, or for their Allies, till the entire Monarchy of *Spain* be restored to the House of *Austria*."

All this while the Lords had under Consideration the Business of *Spain*, and the Grievances of the Merchants. In reference to the last, their Lordships having maturely considered the Complaints against Captain *Kerr*, presented the following Address to her Majesty :

Anno 6 Anne,

1707.

Lords Address
concerning Capt.
Kerr.

May it please your most excellent Majesty,

WE your Majesty's most dutiful and obedient Subjects the Lords spiritual and temporal in Parliament assembled, do humbly inform your Majesty, that there has been laid before this House by Mr. *Thomas Wood*, in behalf of himself and divers other *Jamaica Merchants*, Complaint against Captain *William Kerr*, late Commander of a Squadron of your Majesty's Ships at that Island, for refusing to grant Convoy for their Ships to the *Spanish Coast of America*; and in particular, that the said Mr. *Thomas Wood* had offered to the said Captain *Kerr* the Sum of 600*l.* as a Gratuity, if he would order one of your Majesty's Men of War under his Command, to go as Convoy to the *Neptune Sloop*, and *Martha Galley*, loaded with Woollen and other Goods of your Majesty's Subjects. That the said Captain *Kerr* at that Time seemed pleased with the Proposal, and said, the *Windfor* should be the Ship, and ordered Mr. *Wood* to make what Dispatch he could in getting the Galley and Sloop ready. On which Encouragement he got them ready to sail, and bought three hundred Negroes to put on Board them; and then acquainted Captain *Kerr* therewith, and with the great Charge he was at in maintaining the Negroes, and his Fear of their Sickness. Captain *Kerr* then said, he feared he could not spare a Man of War, but the next Day sent Mr. *Tudor Trevor*, Captain of the *Windfor*, to acquaint Mr. *Wood*, that Captain *Kerr* said, he thought Mr. *Wood* could not have offered less than 2000, or at least 1500*l.* Whereupon Mr. *Wood* declared the Sum was so great, that the Trade could not bear it, and so the Sloop and Galley proceeded on their Voyage without Convoy; and in their Return, the Sloop, loaded with great Wealth, being pursued by French Privateers, and having no Convoy, and crowding too much Sail to get from the Enemy, was unhappily overset and lost.

The said Mr. *Thomas Wood* also made another Complaint, that upon a further Application to the said Mr. *Kerr*, for a Convoy for three Sloops bound for the said *Spanish Coast*, he promised to give the *Experiment Man of War*, commanded by Captain *Bowler*, as a Convoy, for which the said Mr. *Wood* agreed to give 800*l.*; 400*l.* Part thereof, was paid to the said *Bowler*, and the other 400*l.* was made payable by Note to one Mr. *Herbert*, for the Use of Mr. *Kerr*, which Note was sent in a Letter to Mr. *Kerr*, and by him put into Mr. *Herbert's* Hands: And besides that, as a further Encouragement for allowing the said Convoy, Mr. *Kerr* had an Adventure of 1500*l.* in the said

• said Sloops, without advancing any Money. To this Com- Anno 6 Annæ,
1707.
plaint Mr. *Kerr* put in his Answer, and both Parties were
fully heard by themselves, and their Witnesses; and upon
the whole Matter, the House came to this following Reso-
lution, That the said Complaint of the said Mr. *Wood* against
the said Captain *Kerr*, as well in relation to the *Neptune*
and *Mariba* Galley, as also in relation to the other three
Sloops that went under the Convoy of the *Experiment*
Man of War, hath been fully made out and proved to the
Satisfaction of this House.

These Matters we think ourselves bound in Duty to lay
before your Majesty, as being of the highest Consequence
to the Trade of your Majesty's Subjects, whereupon the
Wealth and flourishing Estate of the Kingdom doth so ma-
nifestly depend.

We do also think ourselves obliged to inform your Ma-
jesty, that in the Examination of these Complaints, we
find divers corrupt and unjustifiable Practices of the like
kind (tho' not attended with altogether such aggravating
Circumstances) have been too frequent in your Majesty's
Fleet: And we are humbly of Opinion, that nothing can
be of more pernicious Consequence than the suffering such
Abuses to proceed with Impunity: And therefore we be-
seech your Majesty to be pleased to give such effectual Or-
ders and Directions, as shall for the future prevent the like
corrupt Doings, to the Oppression of the Merchants, who
at this time lie under many heavy Discouragements. And
we do humbly hope, your Majesty will be pleased to de-
clare in such a Manner as may be most public and effectual,
to all Commanders of Squadrons, and Captains of Men of
War, that their Care and Diligence in attending, protect-
ing, and securing the Trade of your Majesty's Subjects,
when any Charge of that Nature should be committed to
them, or when they shall have any Opportunity of doing
it, shall be a sure, particular, and principal Recommenda-
tion of them to your Majesty's Favour, in any of their Pre-
tentions to Promotion in your Majesty's Service.'

To this Address, the Queen was pleased to make the fol-
lowing Answer, *viz.*

Queen's An-
swer.
THAT her Majesty would take care, in the most effectual Manner, to discourage the Abuses and ill Practices complained of in that Address, and to prevent the like for the future; and the House might be assured, that her Majesty would always countenance with her Favour, such Commanders and Officers, who should discharge their Duty by protecting and securing the Trade of the Nation."

Anno 6 Anne,
1707-8.

Bill for rendering the Union more complete passed.

Protest thereon.

February the 7th, Hodie 3rd vice ~~le~~ta est Bill, entitled, An Act for rendering the Union of the two Kingdoms more entire and complete, by which one Privy Council was to serve for the United Kingdoms.

The Question was put, Whether this Bill shall pass ?
It was resolved in the Affirmative.

Dissentient'

1st, Because the Clause of this Bill, which relates to the Privy Council, determines the Privy-Council of *Scotland*, so soon as the first Day of *May* next, by which time the Provision made in the same Bill, instead of the Privy-Council, for the Security of the Peace, by appointing Justices of the Peace, to be constituted under the Great Seal of *Great Britain*, in the several Counties of *Scotland*, cannot be expected to take Effect ; and therefore we conceive, that if that Clause had been framed so as not to take place till the first of *October* next, as was proposed, the Privy-Council of *Scotland* had been abolished, as certainly as by the present Bill, and with more Security to the Peace and Tranquility of that Part of the United Kingdom.

2^{dly}, Because the Clause in the Bill which appoints the Commissions and Powers to the Justices of Peace, authorizes those Justices to proceed against Offenders during the first fifteen Days after the Crime committed ; and that in the Liberties of heritable Offices and Officers for Life, which, at the Time of the Union of the two Kingdoms, the Justices of the Peace (and all ordinary Officers and Ministers of Justice) were by Law excluded from doing ; and therefore we apprehend, that the last-mentioned Clause in the Bill might be construed to be an Encroachment upon the 20th Articles of the Union, and by that means be the Occasion of raising great Jealousies and Discontents throughout that Part of the United Kingdom.

Couper, C. Jonat. Winton, Herbert, Crawfurd, Rivers, Ilia, Pembroke, Wemyss, Roseberie, Marlborough, Mar, Berkeley, Lothian, Loudoun, Glasgow, Radnor, Cardigan, J. Bridgewater, Seafield, Cholmondeley, * Greenwich, Stair, Godolphin, Somerset, Leven.

A Committee of
Lords examine
Greg.

The House of Peers appointed a Committee of Lords, among whom the Earl of *Sunderland* was chief Manager, to examine *Greg* ; also *Alexander Valier*, and *John Baza* : And after hearing of Witnesses, and Perusal of several Papers, the said Committee made a Report to the House, who thereupon presented an Address to the Queen, containing their Resolutions, as follow :

* First,

* John Campbell Duke of Argyle, created Earl of Greenwich November the 26th, 1705.

First, THAT the Crime of which *William Greg* stood at Anno 6 Anne, 1707-8, tainted, was of so heinous a Nature, and with such extraordinary Circumstances, that it might prove of very pernicious Consequence, if he should not be made an Example. Secondly, And that it plainly appear'd to them, as well by what *Alexander Valiere* and *John Baza* had informed against each other, as by the many Examinations taken concerning them, that they were both in the French Interest, and unfit to be trusted or employ'd by any Persons in her Majesty's Service; and that the open and public Manner of the Correspondence managed by them with the Governor and Commissaries of *Calais* and *Bologne*, could tend only to carrying on an Intelligence to the Advantage of her Majesty's Enemies; and that it was highly probable thereby, the Stations of our Cruizers, the Strength of our Convoys, and the Times of Sailing of our Merchant-Ships had been betray'd to the French.

Resolution of the House thereon presented to the Queen.

The Queen said in Answer:

I Am sorry that any who have been employ'd by those in my Service, should have proved false to their Trust, and injurious to the Public. I doubt not the Example laid before me by your Lordships will be a sufficient Warning to keep all Matters of Importance as secret as may be, and to employ such only, as there shall be good Grounds to believe will be faithful.

The House of Peers having received several Complaints concerning the Mismanagement of the Affairs of the Navy, spent much Time in making a narrow Inspection into them, and on the first of this Month presented an Address to the Queen concerning the State of the Navy and Trade of the Nation, which, by reason of the many very useful Particulars contained therein, ought by no means to be omitted here.

Die Mercurii, 25 Februarii, 1707-8.

WE, your Majesty's most dutiful and obedient Subjects, the Lords spiritual and temporal, in Parliament assembled, do humbly acquaint your Majesty, that, early in this Session of Parliament, a Petition of several Merchants, on behalf of themselves and others, Traders of the City of London, was presented to the House, whereby they complained of great Losses by the ill-timing of Convoys, and for want of Cruizers; so that they durst no longer engage the Remainder of their Estates to carry on their several Trades, unless immediate Care was taken to remedy these two main Causes of their Misfortunes.

Address of the Lords about the Mismanagement of the Navy.

This

Anno 6 Annas

1707-8.

This Petition containing Complaints of great Consequence to your Majesty's Subjects ; and we being sensible, that nothing but a strict and impartial Enquiry into Matters of Fact, could put them in a due Light, and enable us to distinguish between ill-grounded Clamours, and a just Cause of Complaint, in order to take the usual Method of being rightly and fully informed, did refer the Petition to a Committee, and did also refer to the same Committee several Papers, which the House had found necessary to call for from the proper Offices, for their better Information in divers things relating to the Navy.

The Committee having prepared a Report, and presented it to the House, upon a mature Consideration, it was approved and agreed to ; and we think it our Duty humbly to lay the same before your Majesty.

The Lords Committees have heard many of the Petitioners upon their Oaths, and have caused them to put their Depositions into Writing, and sign the same.

The Lords Committees observing, that the Complaints of the Petitioners naturally fell under several Heads ; for the greater Ease of the House, have endeavoured in their Report to reduce the Evidence to the following Method, always referring, as they proceed, to the Depositions themselves.

One thing complained of, was the Insufficiency of Convoys appointed for the Merchants, whereby their Ships had from time to time become a Prey to the superior Force of the Enemy.

A second Point was, The Merchants suffered great Discouragement by their being forced to wait long for Convoys, even after the Time promised and prefixed for their sailing, whereby the Charge of Seamen's Wages and Victuals, Demurrage of Shipping, Damage of Goods, and Loss of Markets, made trading insupportable.

A third Ground of Complaint, was, The untimely and unseasonable sailing of Convoys, whereby Trade (to the West-Indies, especially) was in a manner ruined.

A fourth was, The great want of Cruisers in the Channel and Soundings.

A fifth Complaint was, concerning the arbitrary Proceedings of the Captains of the Queen's Ships of War, in impressing Seamen out of the Merchant-Ships in the West-Indies ; as also upon their Return into the Ports of Great Britain, to the endangering of many, and loss of several Ships.

In order to make out the first Head of their Complaint, relating to the Insufficiency of Convoys, they gave the following Instances :

First,

First, In June, 1706, a Fleet of Merchant-Ships, under ~~Anno 6 Anne~~
Convoy of the Gosport Man of War, bound for the West Indies, were attacked in the Soundings, and the Gosport and eight or nine of the Merchant-Ships were taken.

Secondly, The Lisbon Fleet, under Convoy of the Swiftsure and Warspite, were attacked in March, 1706-7, and about fourteen Merchant-Ships taken in the Soundings.

Thirdly, The Newfoundland Fleet, under Convoy of the Falkland and Medway's Prize, were attacked in April, and some of them taken.

Fourthly, The Coasting-Convoy was attacked in April off the Land's End.

Fifthly, The Convoy from the Downs, consisting of the Hampton-Court, the Royal-Oak, and the Grafton, sailed the first of May last, and the next Day were attacked in the Channel, and the Hampton-Court and the Grafton, and about twenty Merchant-Ships were taken by the Dunkirk Squadron.

A Sixth Instance was, That of the Russia Ships outward bound this Year, which was attacked by the Dunkirk Squadron, and fifteen of them taken.

And farther, in respect to the Russia Fleet, Mr. Dawson informed their Lordships, that on the 20th of April, the Governor and a Committee of the *Mastovia* Company, attended the Prince's Council, to know what Convoy was appointed to conduct their Ships to *Arabangal*: They were told, their Convoy should be one fourth, and two fifth-rate Ships. Upon their representing their Fears of Danger from the Dunkirk Squadron, it was told them from the Board, they need not be under any Apprehension on that Score, for the Dunkirk Squadron was gone Westward; which proved not true, for on the Thursday following, the Hampton-Court, Grafton, and Royal-Oak, sailed out of the Downs with the Ships under their Convoy, and the next Day, being the 2d of May, fell in with the Dunkirk Squadron.

To shew the Losses and Disappointments that have lately happened to the Fleets of the *Mastovia* Company, Mr. Dawson acquainted their Lordships with the Substance of a Petition lately presented by the *Mastovia* Company to the Prince's Council; and upon his Oath informed their Lordships of many Facts, in order to make good what was contained in that Petition: But those Facts being not particularly set down in his Deposition delivered to their Lordships, and signed by him, no Notice is taken of them in this Report.

The Merchants also desired, that Notice might be taken of the Gazette of the 8th of May last.

Severally, The Merchants instanced in the Convoy which went with the King of Portugal's Horses, and many other Mer-

Amo. 6 Annos,
1707-8.

Merchants Ships, which were attacked the 10th of *October* last, by the *Dunkirk* and *Brest* Squadrons joined together, who burnt one of our Men of War, and took three others, with about 30 of our Merchant Ships.

To shew this, the Merchants produced the *Gazette* of the 3d of *November*, 1707.

These several Convoys having been thus attacked in the *Soundings* and *Channel* in less than a Year and a half, the Merchants insisted, was a convincing Proof of their Insufficiency.

The second Head of Complaint was, of the great Discouragement and Prejudice to Trade, by the Merchants being under a necessity of waiting so long for Convoys, whereby their Charges were exceedingly increased, great Damages happened to their Cargoes, and their Markets were lost.

They said, if any of their Ships happened to escape the Enemy in their Return Home, their Losses were much heightened by their long lying for a Convoy in the River; which, tho' very much and long complained of, yet seldom met with any Redress.

One Instance of the Damages arising by the Delay of Convoys, was, That several of our Merchants had Orders in *July*, 1704, for buying great Quantities of Corn for the King of *Portugal's* Use, and had Assignments on the Treasury for 100000 Pieces of Eight: Accordingly a great Quantity of Corn was bought in *July* and *August*, and frequent Applications made to the Prince's Council for Convoy, and they promised from time to time to take Care of it; but the Convoy did not sail from *Portsmouth* till the 6th of *February* following, near seven Months after they had Orders: And by this Delay their Corn was in a very bad Condition.

The Merchants had an Order from the King of *Portugal* to the same Purpose the Year before, but then they had worse Success in getting their Corn convoyed to *Portugal*: And by these Disappointments, the *Portugal* Court was discouraged in sending Orders for more Corn from hence, not only by reason of the great Disappointment, as to Time, but by the spoiling of the Corn, whereby our Corn was brought under great Disrepute; and they now supply themselves from *Holland*, and thereby the *Dutch* not only reap the Advantage thereof, but, as the Corn comes chiefly to them from the *Baltick Seas*, it is a great Advantage to their Trade and Navigation.

The 25th of *March*, 1707, a Fleet sailed for *Portugal*, but there was then a Prospect given, that there should soon go another Convoy. This encouraged the shipping of great Quantities of Corn, and Woollen Manufactures; and the

Heat of the Weather coming on, pressing Applications were Anno 6 Anne; made for that Convoy, but without Success.

1707-8.

The 10th of *August*, the grand Fleet sailed from *Portsmouth*, but took no Merchant Ships under their Convoy.

The Merchants having continued petitioning, till about the latter end of *September*, then told the Prince's Council in plain Terms, that if they did not grant a Convoy immediately, the Goods aboard their Ships would inevitably perish in Port.

At that time they promised the *Norfolk* and *Warspight*; the Merchants prayed a small Ship might be added to see their Ships safe along the Coasts of *Portugal*, but that was denied; and the Prince's Council told them, the *Warspight* had Orders to that Purpose.

The Merchants acquainted them, that so large a Ship at that Season durst not venture so near the Shore, as was necessary to protect the Trade from Privateers lying near the Shore; and did also represent the Danger to which the main Fleet of Merchant Ships, bound for *Lisbon*, would be exposed, if they proceeded with a single Man of War; but this was not regarded: So the Merchants were forced to submit, having some Chance for saving their Cargoes, if they proceeded; whereas they had none, if they continued longer in Port; for not only their Corn would be spoiled, but all their Woollen Manufactures were in Danger of decaying by the heating of their Corn, as had been often experienced.

Soon after, a Report came, that a *French* Squadron was cruising in the *Channel*, and an Embargo thereupon was laid on that Fleet. The *Portugal* Merchants drew up a Remonstrance, representing the great Hardships they had suffered: But it happened at the same time, when the Remonstrance was presented to the Prince's Council, News came, that some *Dutch* homeward-bound *West-India* Ships, meeting with contrary Winds in the *Channel*, had been taken for *French*, and were put into *Portsmouth*. Upon this, the Merchants pressed they might proceed without Delay, the Cause of the Embargo being removed: But the Board seemed displeased with their Remonstrance, and told them, the Embargo had been laid by the Prince, and could not be taken off without his Direction; and that his Highness being then at *Newmarket*, it must take up time before such an Order could be sent; but, if they would stay a Week longer, the *Exeter* should be added to the Convoy, and the *Nassau*, if she could get up in time; to which several of the Merchants did agree, and were obliged by the Board to sign a Paper to that Purpose.

The Fleet sailed the 18th of *October*, with the *Norfolk*,
1707 8

C c

War.

Anno 6 Anne,
1707-8.

Warrspight, and *Exeter*, but the *Nassau* did not join ; which the Merchants said, was only for want of necessary Orders ; for the Fleet was not under sail till three of the Clock in the Afternoon, and the *Nassau* came to *Spithead* before Night.

By reason of the Insufficiency of this Convoy, several Ships were taken out of the Fleet near *Portland* ; and afterwards the Fleet meeting with bad Weather in the *Bay of Biscay*, the *Warrspight* and *Exeter* came back disabled : Whereas the Merchant Ships (except some few, which had fallen foul upon each other) proceeded to *Lisbon* with the *Norfolk* only : But several more Ships were lost out of the Fleet by the Weakness of the Convoy, and two Men of War, out of three, being disabled, and forced to return, they thought it reasonable to conclude it could not be without some considerable Defects in the Ships, when they went out.

Another Instance insisted upon, was, that a great Number of Merchant Ships having gotten into *Portsmouth* from *Jamaica*, *Virginia*, *New England*, *Antigua*, *Lisbon*, and other Parts, in *December*, 1706, as also many Coasters ; all these were detained there for want of Convoy to the *Downs*, from that Time to the 24th of *April* following, being between four and five Months, altho' frequent Applications were made to the Prince's Council, for Convoy to the *Downs*, from the Masters there, and the Owners at *London*, and many Promises given ; and yet during that Time, many of her Majesty's Ships lay there in Harbour, and several Men of War passed by from *Plymouth*, without calling for the Merchant Ships which lay there.

Sir *Thomas Hardy*, with the *East-India* Ships, and other Ships from *Ireland*, passed by without calling in.

When these Merchant Ships came into *Portsmouth*, the *Southampton* lay ready fitted at *Spithead*, and continued there two Months, at least, and the *Anglesea* lay there a considerable time ready fitted.

During this Time, several Frigates sailed from *Portsmouth*, and cruised up as far as *Dungeness*, within seven Leagues of the *Downs*, but, for want of Orders, took no Ships with them.

Whilst these Ships lay there for want of Convoy, there were at *Spithead* the following Men of War, many of which lay there a considerable time : viz.

The *Anglesea*, *Southampton*, *Swiftsure*, *Warrspight*, *Severn*, *Portland*, *Ruby*, *Feverham*, *August*, *Nassau* and the *Albemarle*, *Reserve*, *Dover*, *Ramellies*, *Sun-Prize*, and two Fifth-Rates.

Some of these (it was hoped, during the westerly Winds, which

which were very frequent) might have been ordered to have Anno 6 Anne, seen these Ships, being about fifty or sixty Sail, to the *Downs*, 1707-8. which was within about sixteen Hours sail.

All this while the Merchants lay at great Charges, besides the Damage to their Cargoes, and the Loss of many of their Voyages for the following Season.

About the 10th of *February*, the *Ruby* and *Feverham*, appointed as a Convoy for them, gave failing Orders, but were again countermanded, and the *Ruby* went into the Dock to clean.

Afterwards, upon further Importance, the *August* was ordered to join the *Ruby* and *Feverham*; but instead of going for the *Downs*, they went first to fetch the Coasters from *Feverham*, and then came to call for the Ships at *Portsmouth*.

About the Beginning of *October*, 1706, Mr. *Coward* and Mr. *Jones* let several Ships to freight to the Commissioners of the Victualling Office, for the Queen's Service directly to *Jamaica*: Being told, the Convoy waited for them, they were bound by Charter-Party to be at the *Nore* the 15th of November following, on Penalty of 5s. per Ton freight.

Their Ships were ready, and the Wind was fair, but they were detained for the Convoy, and carried from Place to Place, from the *Downs* to *Portsmouth*, thence to *Plymouth*, thence to *Ireland*, thence to *Barbadoes* and *Antigua*, staying at each Place, so that they arrived not at *Jamaica* till the 3d of *June* last, to the Ruin of their Voyage, and their Ships, of which they just then had an Account, that they are lately come back to *Ireland*.

Mr. *Coward*, the 11th of *February* last, let to freight to the Commissioners of Victualling in the Queen's Service for *Lisbon*, the *Walthamstow Galley*, (and as he was bound by Charter-Party, under the same Penalty) was ready by the 1st of *March* last, but was detained till the End of *August*, before he sailed from *England*.

Captain *Kerr* appointed all the Ships at *Jamaica* to be ready to sail the 1st of *August* last, but then he made them wait till the 26th of *August*, and after, with his Convoy, left them all when at Sea.

Mr. *Palmer*, in 1705, had a Part in a Frigate called the *Ruby*, laden with Corn and Bale-goods for *Lisbon*; and, in Company with many others, was convoyed from the *Downs* to *Portsmouth*, by the *Litchfield Prize*; but for want of Orders, she could not see them at *Plymouth*, about twelve Hours sail farther, where they might have joined Sir *Cloudesley Shovell's* Fleet, bound for *Portugal*. Upon this, the Merchants sent many Petitions to the Prince's Council, which together with the Answers (being direct Refusals) were in-

Anno 6 Anne, 1707-8. ftert in his Deposition. Mr. *Palmer*, in Person, afterwards, in the Name of the several Merchants, attended the Prince's Council, and represented, that, without speedy Relief, all the Corn aboard the Ships would be spoiled; but the Answer was, That no Convoy could be granted; and at last, by a violent Storm the 10th of *August*, about twenty Sail of these were cast away, and amongst them the *Ruby*, worth, at least, 7000*l.*

For a farther Evidence, the Merchants produced to their Lordships the *Gazette* of the 1st of *May*, 1707, and shewed the Paragraph from *Offend*, in which are these Words:

‘ A Fleet of Merchant-Ships, which lay five Months in the *Downs*, consisting of fifty five Sail, arrived at *Offend* this Evening, to the great Advantage and Satisfaction of this Place.

This the Merchants observed was a great Delay for so short a Passage, and must extremely prejudice the *Flanders* Trade, which the Parliament thought fit to encourage, by passing an Act the last Session for repealing the Prohibition of importing Lace.

A third Ground of the Merchant's Complaint was, That by the untimely and unseasonable Proceeding of Convoy, especially to the *West-Indies*, they were very great Sufferers upon many Accounts.

By arriving there at an improper Time, in the hot, sultry, and rainy Seasons, a great Mortality is occasioned among the Seamen, which proves a Loss of their Voyages, for want of Hands to bring Home their Ships, or put them to vaite Charges to purchase Men there.

The same Cause obliges the Traders to the *West-Indies* to return in the Winter Time, when they commonly meet with stormy and foggy Weather, which is often the Occasion of their Separation from their Convoy; who being well manned, and crowding all the Sail they can, out-fail the Merchant Ships, being (for the Reasons aforesaid) generally but weakly manned, and so are left in Distress to the Mercy of the Enemy, or the Seas, for want of a little Conduct in the Convoy in shortening Sails, and taking care of them.

An Instance of this was alledged in the Fleet now missing from *Jamaica*, which came under Convoy of Captain *Kerr*, with three Men of War, the *Breda*, the *Sunderland*, and the *Experiment*, and a Fire-Ship; one of which, the *Sunderland*, came alone to *Plymouth*, the *Breda*, and the Fire Ship, to *Plymouth*, and the *Experiment* afterwards to *Spithead*, but not one Merchant-Man, except a small Ship to *Bristol*.

The Merchants observed, that if the Convoy had fired Guns,

Guns at tacking in the Night, or used any other reasonable Care, they could hardly have lost a whole Fleet of above twenty Sail.

They observed also, That the Convoy were all come to *Portsmouth* or *Plymouth*, and yet Mr. Kerr himself had wrote from *Plymouth*, that, in case of Separation, the Rendezvous was to have been in *Ireland*.

The *Jamaica* Merchants complain, That they had long lain under great Discouragements.

That about *October*, 1705, they applied themselves to the Prince's Council, complaining of the many Losses in their Fleet the preceding Year, which had to a great Degree disabled them from sending another that Year: But that however, depending upon the then repeated Assurances, that they should have a sufficient Convoy to depart early, and more particularly, upon an Order sent from that Board to the *Jamaica* Coffee House, That the Merchants should get their Ships ready to depart by the 20th of *January*, at farthest; they had prevailed with sundry Persons to let their Ships go to *Jamaica*. Accordingly, Ships were fitted out with great Expedition, and Men hired at extravagant Wages. But, after all those fair Promises, their Ships, thus fitted, lay almost two Months beyond the Time prefixed, for want of a Convoy.

The 21st of *March*, the Merchants (as Men in Despair) reciting the former Assurances given them, petitioned his Royal Highness, that their Ships might depart with the first Squadron bound out of their *Channel*; adding, That if that Fleet should miscarry by their late going out, and return, they desponded of getting Ships to carry on the Trade the succeeding Year.

Howbeit, that Fleet was detained till the beginning of *May*, and the ill Success too well answered the Merchants Apprehensions; for the greatest Part of the Fleet, being separated from their Convoy in their return, were lost.

That by these and many other Hardships, the *Jamaica* Trade is brought to so low a State, that whereas at the Beginning of the War, their Fleets Home, have consisted of thirty or forty Sail, when they were lately informed by the Prince's Council, that a sufficient Convoy should be ready to depart with their Fleet in a proper Time, they were obliged to acquaint the Board, that they had now but two Ships in loading.

They also said, That, without some speedy Remedy, they should be quite disabled to make any farther Efforts, to carry on the hopeful Trade begun to the *Spanish West Indies*; upon Account whereof more Woollen and other *English* Manufactures were shipped to *Jamaica* for that Trade, than had been in several Years before.

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In respect to the *Virginia* Trade ; In October 1705, some Ships sailed for *Virginia*, under Convoy of the *Woolwich* and *Advice*, who were ordered to stay there till reinforced from *England* ; and the Merchants were then promised, that the *Greenwich* and the *Hazardous* should sail with the first fair Wind in *January* following ; but those Ships did not sail till *May*, 1706. This Delay was the Cause they did not reach *Virginia* till *August* ; at which time the greatest Part of their Fleet had been sixteen Months in their Voyage. By this Length of the Voyage, their whole Freight was expended in Wages, Victuals, and other incident Charges.

Secondly, The Ships lying there almost two whole Summers, several of their Bottoms were perished by the Worms, which in those Parts always eat in the Summer Months.

Thirdly, To compleat their Misfortune, they were forced to make a Winter Passage home, and by the Badness of the Weather, &c. sixteen or more Ships were sunk or founder'd in the Sea, and about eight thousand Hogsheads of Tobacco lost, other Ships with above two thousand Hogsheads of Tobacco more, were taken and carried into *France* ; and divers Ships were forced back to *America*, and since returning without Convoy, are lost, and not heard of.

The Particulars of these Losses are annex'd to the Depositions given in by the Merchants, and thereby it is alledged, That the public Revenue has suffered above one hundred and fifty thousand Pounds, besides the very great Loss to the particular Persons concerned.

It having been the last Winter represented by the Commissioners for Trade, That it was necessary a Convoy should go to *Virginia* in the Spring, to fetch the Ships which should be there, and that they should stay there twenty Days after their Arrival, to collect them the better together ; a great Body of Ships which had taken Stores, &c. for *Lisbon*, upon her Majesty's Account, were thereby encouraged to go from thence to *Virginia*, and many other Ships went from *London* directly. But most of these remained in *Virginia* in September last, expecting this Convoy, and will now be obliged to come home without Convoy in the Winter Season : For though the last Spring her Majesty in Council ordered a Convoy to be ready in *August*, to go for *Virginia*, yet they still remain at *Portsmouth*. By this the *Virginia* Ships will be forced to lie all Summer in *Virginia*, and come home again in the Winter, and thereby not only the Merchants Losses and Damages will be very great, and the Revenue suffer much, but there is aboard this Fleet, far greater Quantities of the Woollen Manufacture, for the Winter Cloathing of that Country, than has been usually sent to those

Parts,

Parts, which now cannot arrive till the Winter be over, and Anno 6 Anne,
the Market past; and Necessity will justify those People for
undertaking our Manufactures, which many of them have
already fallen into: The ill Consequences of which the Mer-
chants submitted to the Consideration of their Lordships.

They also said, That, for some Years past, there had been
no Frigate appointed to take care of the *Virginia* Coast, for
want of which, many Ships have been taken, going in, and
coming out, by the *French* Privateers.

These Merchants pray'd their Lordships to use some Means,
that the Coasts of *Virginia* may be guarded, proper Con-
voys appointed, and the Merchants have due Notice thereof,
and that then they might neither be delayed nor diverted,
and that the Admiral's Protection might stand good, till the
Ships were arrived in the proper Ports of Discharge.

A fourth Head of the Merchants Complaint was, the great
Want of Cruisers in the *Channel* and *Soundings*.

Mr. *John Wood* informed their Lordships, That in the
Space of sixteen Months last past, he had been concerned as
Owner and Freighter of several Ships that loaded Corn in
the Port of *Shoreham* in *Sussex* for *Holland* and *Lisbon*.

The *Union* Frigate was ready to sail for *Portsmouth* in
October, 1706, but the Coast was so infested by Privateers,
that she could not, without apparent Danger, proceed in
Portsmouth, tho' only eight or ten Leagues distant: There-
upon he and other Owners, in like Circumstances, made fre-
quent Application to the Prince's Council, for a Man of
War to convoy those Ships, but they from time to time de-
layed to order any Ship to call at *Shoreham*. He said, that
upon one Application the Prince's Council told them, that
they had only some third-rate Men of War, too large to lie
on that Coast, except a Frigate of about twenty six Guns,
which Admiral *Mitchell* said they might have; but Admiral
Churchill said, if she was sent, she would certainly be taken.
At last Mr. *Wood* despairing of Assistance, after waiting six
Months (the Ship lying at great Charges, and having on
board a perishing Commodity) notwithstanding the apparent
Hazard, directed the Ship should sail for *Portsmouth*, but
they were soon chased by three Privateers, and thereupon
got under the Guns of *Bright Helmston*, but found little Pro-
tection there, the Guns being not in Order, and there being
no Powder to charge them: But Night coming on, and
the Weather bad, and the Privateers standing off to Sea,
the *Union* Frigate, by the Favour of the Night, weighed and
stood for the *Downs*, and by the Dawning of the Day was got
up with *Beachy head*, but there fell in with several Privateers,
who chased her under the Guns of *Hastings*, where then lay

a *Tender*

Anna 6. Anne, a Tender to a Man of War, with about an hundred impressed Men, which durst not stir out, either for the Downs or Portsmouth, for fear of the French Privateers, which were very numerous on the Coast, and almost constantly cruising between Beachey-head and Shoreham, without Interruption from our Men of War.

Some Days after, a Convoy coming from the westward with some Ships, the *Union* Frigate joined them, and got into the *Downs*.

The same Mr. *Wood*, in the Months of *April, May and June* last, was concerned in several other Ships freighted with Corn, in the same Port of *Shoreham*, for *Lisbon* and *Holland*; but then also he did not dare to suffer his Ships to stir out, the Coast continuing still infested with French Privateers. There was also, at that time, in the same Harbour, a Vessel laden with Timber for the use of the Navy, which was said to have lain there twelve or thirteen Months for want of Convoy to *Portsmouth*. At last, upon frequent Applications to the Prince's Council, a Convoy was sent, and the Ships went out; but soon after they had joined, the Convoy ran away, and left the Ships, upon a Report that the *Dunkirk* Squadron was upon the Coast, and the Ships were pursued by Privateers, and with great Difficulty got to *Portsmouth*.

The Privateers continuing to infest the Coast as much as ever, Mr. *Wood* refused to be farther concerned from the Port of *Shoreham*, and has not heard of any Corn exported since that time from that Harbour, which is a great Impoverishment to the Country thereabouts, the Price of Corn there being 20 or 25 per Cent. cheaper than at other Places which lye nearer *Portsmouth*.

Mr. *Thomas Palmer* deposed, That within three Years he has lost to the Enemy in the *Channel* and *Soundings*, a large Part in three running Galleys, outward-bound to the *Streights*, and in six Weeks time, has lost as much coming home, as would have paid her Majesty some thousand Pounds Custom.

The *Pilgrim* Galley, laden with Fish, was taken in the *Soundings*, by three large Privateers.

The *Providence* Galley, laden with our Manufactory, and some Fish, Lead and Tin, bound to the *Streights*, worth near 10,000*l.* was taken off of *Dungeness* some few Hours Sail from the *Downs*, by three or four large *Dunkirkers*.

The *Mead* Galley and *Fly* Galley, going out in *March* last in Company with the *London* Galley, they were chased off of *Beachey-head* by three Privateers, who took the two first, the *London* narrowly escaping, as he was informed from *Plymouth* by the Master, who informed him in the same Letter, that a Neutral Ship put in there, and had been boarded above a dozen Times in one Day by French Privateers. The

The 15th of the same *March*, several Merchants made a Remonstrance of their Losses to the Prince's Council, who told them, They were not to expect Convoy for their Running Galleys: They replied, they did not, but desired Cruisers might be appointed for the *Channel* and *Soundings*, the Running-Galleys being now the Vessels which chiefly carried on Trade; and that if some better Care were not taken, even the Men of War would be in Danger in the *Channel*. The Merchants were directed to leave their Remonstrance, that it might be looked into at a full Board, but it had no Effect: The same Vessel, the *Londaz*, going out in Company of the *Handifide* and *Fleet Galley*, the *London* was taken, and the *Handifide* blown up in a Fight off of the *Lizard*, and the *Fleet Galley* only escaped.

The *Antelope* Galley, laden with Lead, Tar, and Stock-fish for the *Streights*, was chased off of *Beachey-head*, by the *Lyme* and *Gosport* Men of War, under *Dutch* Colours; the Master taking them to be Enemies, made the best of his Way for *Hastings*; then the Men of War hoisted *English* Colours, but the Master not trusting to Colours, unfortunately ran the Galley ashore: This Accident cost above 100*l.* to get her into *Rye*, and above twice as much since, upon the Account of Loss of Time, she being detained there by the Swarms of Privateers, as appears by several of the Master's Letters of the Dates following.

The 15th of *October*, there were two Privateers and a *Snow* off that Harbour.

The 17th, two Privateers off that Harbour.

The 22d, two Ships of 30 Guns within three Miles of the Harbour.

The 24th, four *French* Men of War at Anchor within sight of the Town.

The 28th, a Fleet passed by, with which the Master would have joined, but could not, because there lay three *French* Privateers between them and him, and seven more in sight.

The 30th, a *Dutch* Dogger was chased in there by seven Privateers.

The 5th of *November*, a Sloop came into that Harbour, which had been taken and ransomed coming from *Lisbon*, and afterwards boarded and plundered by several *French* Privateers in the *Channel*. The Master of the Sloop gave an Account that three Privateers were lying off of the *Isle of Wight*, three off of *Beachey*, and five or six others off of *Rye*.

The 8th of *November*, six Sail of *French* Ships, and a Sloop lay in Sight of *Rye*, and the Sloop was come within a Mile of the Harbour, right in the *Channel*.

The 15th, a Gentleman that rode along the Coast saw

1707-8.

D d

Fourbin's

Amo: 6 Anne: Fourbin's Squadron, and several Privateers cruising off of Beachy.
1707-8.

The 17th, another Master saw eight Sail of French Ships off the *Downs*, who were sending their Scouts very frequently to observe what was a doing.

The Merchants desired to submit it to the Consideration of the House, if there be a Probability of carrying on Trade under such difficult Circumstances.

Captain *Winter* came in the *King William Galley* the 14th of March last from *Gibraltar*, in Company of the *Pearl*, the *Hanover*, and the *Lodington* Galleys, and at the *Straights Mouth* they joined the *Sea-Horse* and the *Sunderland*.

The 31st of March, they were pursued by four Sail, but escaped them by tacking in the Night.

Upon the 9th of April, they had Sight of *Beachey-Head*, and soon after five Sail of Privateers, lying under the Land, bore down upon them, who all made the best of their way; but the *Lodington* and the *Sunderland* were taken, and the *Hanover* and *King William* were pursued within two Leagues of *Dover-Castle*, and the Privateers would have followed them into the Road had they not seen a great Ship a-head of them, standing in for that Place. And though the Enemies cruise in such great Numbers, that it is very hard for any *English* Ships bound homeward to escape, yet Captain *Winter* said, he did not see one *English* Cruiser throughout his whole Voyage.

Mr. *William Wood*, in order to satisfy their Lordships that few or no Cruisers had been employed, gave an Account of many Ships taken and attacked at sundry Times, some within a few Hours sail of the River *Thames*, viz.

Off *Beachey* or *Dungeness* in December, 1706,

| | | | |
|-----------------------|---|-----------------------|----------------|
| <i>Dove Galley</i> , | } | <i>Pearl Galley</i> , | |
| <i>Phoenix</i> , | | } | <i>Lewis</i> , |
| <i>Mary Galley</i> , | | | } |
| <i>Betty Galley</i> , | | | |

Off *Plymouth* in December in January,

| | | | | |
|--------------------------|---|-----------------|------------|---------------|
| <i>Volant</i> , | } | <i>Tuscan</i> , | | |
| <i>Hurdis</i> , | | } | <i>and</i> | |
| <i>George</i> , | | | } | <i>Page</i> , |
| <i>Berkeley Galley</i> , | | | | |

Off *Dungeness* in January,

Trumball Galley, taken with 15000 Pieces of Eight on board.

Off

Off Dungeness in March,

Mead Galley, $\begin{cases} \text{taken} \\ \text{Fly Galley} \end{cases}$ The London at that Time
 $\begin{cases} \text{escaped} \end{cases}$ Anno 6 Anne,
1707-8

Off Bradby-Head in March;

Anne Galley, $\begin{cases} \text{taken} \\ \text{Eagle} \end{cases}$ Neptune, $\begin{cases} \text{Phoenix,} \\ \text{Mary,} \\ \text{Hooper,} \end{cases}$ escaped.

In April, 1707,

Sunderland, $\begin{cases} \text{taken} \\ \text{Lodington,} \end{cases}$ Sea-Horse, $\begin{cases} \text{Pearl Galley,} \\ \text{Company of the} \\ \text{Hanover,} \\ \text{King William,} \end{cases}$ escaped.

In the Year 1704, few or no Ships arrived safe for want of proper Cruisers. The Jamaica Traders lost fourteen Ships in the Soundings and Channel.

Sir George Bing and Admiral Jennings in January, 1704-5, were at Sea cruising till October following, during which Time the English Ships were protected, and twenty Sail of the Enemies Privateers and Merchant Ships were taken, but from that Time till October or November 1706, very few ships were cruising.

Then Sir Thomas Hardy sailed with five Men of War, which all returned in five or six Weeks, and soon after sailed for Ireland, and returned to the Downs in February of March, since which Time the Merchants have had no Knowledge of any Ships cruising, till September, 1707.

Mr. Wood told their Lordships, that the Account he gave, was the best he was able to procure of the Number of Cruisers employed, and the Time they have been in Service since October, 1705.

Thomas Pipon, Commander of the Elizabeth Galley, said, that being bound for London from Faro, he had sight of Beachey the 22d of November last, where he spied three Sail to the Eastward of him, and stood from them, but soon after seeing three more near his Wake; and having tried their Sailing, and finding he could by no Means escape, he being so encompassed, he ran his Ship on Shore at East Bourne, on the Coast of Sussex, in hopes of some Assistance; but two of the Privateers came and anchored within Pistol-shot of the Ship, and, by firing, forced the Ships Company to get on Shore, after the best Defence they could make, having first endeavoured to disable the Ship, and put Fire to some of the Sails; but the Enemy was so near, that they soon extinguished

anno 6 Anne, distinguished the Fire, and, by the Help of the rising Water, 1707-8. got off the *Elizabeth Galley*, and carried her away.

Mr. Pipon said, that while he stayed at *East-Bourn*, which was two Days, he saw six or seven Privateers cruising off and on, several very near the Shore ; and was informed by the People of the Place, that, for four or five Weeks past, they had seen French Privateers almost every Day, sometimes to the Number of sixteen, but mostly eight or ten of them, and some of good Force.

He said, by reason of their great Numbers, and cruising in the Narrow of the *Channel*, it is very difficult for any Ships to avoid falling into their Hands, especially since there are no good Harbours or Ports to succour them, nigh that Place ; and the Enemy's Harbours of *Dunkirk* and *Calais* are so near, and so few English Cruisers in the *Channel* to intercept the said Privateers and their Prizes, which makes the Ships Companies be altogether for running on-Shore to save their Liberties.

Captain George Guillaume told their Lordships, that in his last Voyage from *St. Ubes* to *London*, in the Ketch *Concord*, on Sunday the 16th of November last, he was forced by contrary Winds, into *Falmouth Harbour* ; the next Day he saw three French Privateers take a Dutch Ship within three Miles of *Pendennis Castle*.

On Thursday he left *Falmouth*, and on Friday he saw two Vessels, which chased him into *Fresh Water Bay* in the *Isle of Wight* ; but, Night coming on, and the Weather very black, he escaped betwixt the Land and the Ships.

On Saturday the 23d, he made *Beachey-Head*, and, as soon as it was Day, saw a French Privateer under his Lee ; and soon after, saw two at his Stern, and three more at his Lee and two more a-break of him, which made him resolve to run his Vessel on-Shore, being very near Land.

Upon this, the Privateers put up English Colours, which made him forbear for some time to run his Ship ashore but one of them putting all his Sails out, and coming upon him, he grounded his Vessel, and disabled her all he could that they might not carry her off, and then went ashore at a Place called *Reverendy*, and went to the Town, and got some Assistance.

The Privateer came up as Anchor, and fired upon them and the Shot went above half a Mile into the Country. He said, if they had had any great Guns, they might have saved their Vessel ; for it was above five Hours before the Privateer had her afloat.

The two following Days (which was the Time he stayed there) he saw from the Shore six Privateers.

He affirmed, that in his whole Passage he did not see any *Anno 6 Annus*,
English Man of War. 1707-8.

The Merchants gave an Account of the vast Advantage of the *Mediterranean Trade*, which, for a considerable Time, had been carried on with great Success, by ~~numbe~~ *Galleys*, without putting the Government to the Charge of Convoys.

Mr. Gould informed, that beside the *Turky Trade*, and Trade from several other Places in the *Mediterranean*, the Customs of *Leghorn*, *Venice*, and *Genoa*, did amount to about 300000*l.* *Sterling per Annum*; and an Account was also given in by him, in particular, of the very great annual Exports to *Leghorn*, alone, consisting of our Manufactures, Goods of our native Growth, and other Merchandizes; which Trade had continued for many Years, while our *Channel* was better guarded; but of late it is in a manner quite interrupted for want of Cruisers in the *Channel* and *Soundings*, and many rich Ships taken there. He mentioned, in particular, the *Mazarin Galley* from *Turkey*, worth above 80000*l.* taken in the *Soundings*; the *Mediterranean Galley* from *Zant*, taken off *Beachey Head*; the *St. George Galley*, taken in the *Channel*; the *Royal Anne Galley*, taken in the *Channel*, where she had made Boards for about fifteen Days together, without seeing any one Cruiser to help her; the *Trumball Galley*, rich in Money, taken near the *Downs*. — He said, he declined naming more, tho' he could mention several others, the rather, because some of them are included in the great Lists of Merchants Losses, given in to their Lordships, consisting of near 1160 Ships: But, in order to shew the Difference, when any Care was taken for Cruisers, he produced a List to their Lordships of ninety-one Sail of Galleys bound from *Leghorn*, which arrived safe, without Convoys, from *September*, 1703, to *October*, 1704. whilst there were some Cruisers employed.

He said, that Foreigners did reproach our Nation for the great Neglect of the Merchants Ships; and to this purpose he produced two Letters from his Correspondents at *Leghorn*, one dated the 12th of *September*, in which, after taking Notice of the Loss of the *Russia Ships*, it follows; ' Seeing the Enemy fall in with so many of our Convoys, we begin to suspect there may be some Traitors among us' And another Letter, in which (amongst other Things) it is said, ' They have received a lamentable Account of the *Lisbon-Horse Convoy*, by which they observed there had been strange Management in our Maritime Affairs, seeing we can suffer so much near Home.'

He also produced another Letter from *Plymouth*, dated the 8th of *November* last, wherin it was said, ' That the *French Privateers*

Anne & Anne, 1707. 8. Privateers are so bold as to cruise in our very Mouth : About four Days since, two of them chased a Dutchman from Mounts Bay into our very Harbour within Penzance, where there was a sharp Dispute, and some score of Guns fired : There was at that Time between the Island and the Main, the three Welsh Convoy, but neither of them fired, having no Orders ; however, the Dutchman saved his Ship : But this is enough, and too much on so melancholy a Subject.'

Mr. William Coward said, he believed that the List of eleven Hundred and odd Sail of Merchant-Ships lost, given in to their Lordships, was very far short of the whole Number....

As to the fifth Head of the Merchants Complaints concerning their hard Usage, in having their Men impressed out of their Ships in the West-Indies, as also upon their Return Home, by the Captains of the Queen's Ships, to the very great Loss and Danger of their Ships and Merchandise, several Instances were laid before their Lordships.

The Gould Frigate, *Jacob Dowell*, Master, arrived at *Jamaica* in September, 1703. and whilst he went to wait upon the Governor, Captain *Donglass*, of the *Norwich*, impressed five of his best Seamen : The Master waited on the Captain, and showed him his Protection, but *Donglass* told the Master, he had twenty-five Seamen, and his Orders from the Admiralty were to press every fifth Man : And tho' the Master acquainted him, that some of his Men were sick, and that he really wanted Men, to sail his Ship Home, yet he could not prevail but for one Seaman ; the Captain telling him, if he would, he could take away all his Men, and threatened to stop his Ship, unless he would pay him the Wages of the Seamen he had so impressed.

Upon *Dowell's* Arrival at *Plymouth*, his Seamen were again impressed.

This impressing of the Seamen, and the extraordinary Charges occasioned thereby, and the Delay of the Ship amounted to near 100000^l Loss to the Owners and Merchants in that Voyage.

In a second Voyage to *Jamaica* in November 1705, by the same Ship, *Daniel Bright*, Master, several of his Men were impressed, and the Master forced to hire others at an extravagant Rate, and to take French Prisoners on board to help to sail his Ship Home : And upon his Arrival at *Plymouth* the 5th of April, 1706, all his Men, except his two Mates, the Carpenter, Steward, and two Boys, were impressed, and taken from him by one *Saunders*, a Midshipman belonging to the *Oxford*, and other Press-Gangs, so that his Ship lay in danger ; and he could not have brought her to *London*, but by

by the Help of a Dutch Man of War, who furnished him ^{Anno 6 Annas} with ten Men, after he was refused by all the Queen's Men of War, to whom he applied in every Place where he came, tho' in vain.

1707-8.

In July, 1704, the Roundburk Galley, *John Sampson*, Master, arrived in *Jamaica*, where Captain *Bois*, in the *Nesuch* Man of War, pressed five of his Seamen, whereby he was disabled (tho' fully loaden) to fall in Company of a Ship of good Force, which then sailed for *London*; and with great Difficulty, and after long Delay, (with much Damage and Danger to the Ship in the mean time) the Master got four Seamen more, two of his own five before pressed from him, for which two he was forced to give Captain *Bois* a Pipe of Wine, charged at 25*l.* But the Ship proving leaky, by long lying, was lost in her Passage Home, in the *Gulf of Florida*; which Loss in the Ship and Goods was computed to amount to 2500*l.* to the Owner, Mr. *Coward*, beside the Losses of several other Merchants.

The *Somerset* Frigate, *John Wicksted* Master, arrived at *Barbadoes* in April or May, 1705, where several of his Men were impressed, and returning to *Plymouth* the 9th of *August*, 1705. Captain *Johnson* of the *Valeur* Man of War, impressed five of his best Seamen; and the next Night in a violent Storm the Ship and Cargo was lost; which Loss in Ship and Goods was computed at 2000*l.* to the Owner Mr. *Coward*, besides the Losses of other Merchants.

The *Walthamstow* Galley, *Peter Roberts*, Master, arriving from *Barbadoes* about the same time, tho' he had several of his Men impressed at *Barbadoes*, and only nine Men and two Boys left, with himself on board; yet Captain *Roach* of the *Fox*, impressed three of his best Men, his Boatswain being one; although the Master told him how weak he was, and that he had but one Anchor on board: Captain *Roach* said to him, if he was saucy, he would take him and all his Ships Company aboard, and whip the Master at the Geers. Captain *Roach* sent him three *Italians* who could speak no *English*, and they the next Night in a Storm run away with the Ship's Boat, which was stayed, and the Ship ran on shore, and so continued 13 Days to her Damage of 4 or 500*l.* besides the great Prejudice to the Merchants Goods; upon which Account the Master protested at *Plymouth*, and the Protestation was delivered to their Lordships, and is laid before the House. |

Their Lordships do likewise acquaint the House, that there has been offered to them an Information of Mr. *Benjamin Way*, in which he represented in behalf of himself and other Owners and Freighters of the *London* Galley, that the said Galley

anno 6 Annis, Galley sailed from *Jamaica* the latter End of *February* last;
 1707-8. bound for *London*, under Convoy of her Majesty's Ship the
Northumberland, Captain *Roffey*, Commander, with whom they
 kept Company till the 7th of *March*. But there having been
 seven Men impressed from her before she left *Jamaica*, and
 being forced to take *French* Prisoners on board, and to hire
 what other Men she could at excessive Wages, to help to sail
 the Galley home, and crowding all the Sail they could to
 avoid being left by the Convoy, the Galley suffered such Da-
 mage in her Masts, as disabled her to keep Company, and
 being weakly manned and in great Distress, they fired Guns
 and made Signals; but being left by their Convoy, the Ship
 and Cargo perished, to the Loss of many thousand Pounds.

The Merchants made the following Observations to their Lordships, from the Evidence given before them, that the Prince's Council were fully informed of the great Number of the Enemies Privateers; that the Nation had lost the Exportation of Corn for the King of *Portugal*'s Stores by the Delays of the Convoys; and the *Portuguese* Army is now furnished by the *Dutch* with Corn from the *Baltic*; and the Advantage designed by Act of Parliament to the Land-Owner, by giving a Bounty of five Shillings the Quarter upon Exportation, is in a manner disappointed, especially since, for want of Cruisers, the Running-Galleys are almost wholly discouraged.

That the Prince's Council were so sensible of the swarming of Privateers on the Coasts, that they declined sending one of her Majesty's Ships of 26 Guns, lest she should be taken.

And that from *Tuesday* the 29th of *April*, 1707, when Mr. *Dawson* was told by the Prince's Council, that they had Notice the *Dunkirk* Squadron was gone westward, to *Thursday* the first of *May*, when the *Hampton-Court*, *Royal Oak*, and *Grafton*, with the Merchant Ships under their Convoy, sailed out of the *Downs*, there was Time enough to have sent Orders not only by Express, but by ordinary Post, to have stopped the sailing of that Convoy.

The Lords Committees do also herewith present to the House the great List of Ships lost, which the Merchants did lay before them, consisting of 1146.

The Lords Committees do also beg leave to inform your Lordships, that the Method used by them in taking the Examinations of the several Merchants was, that, after they had signed their several Depositions, their Lordships required them to depose, that all that was contained in their Papers, respectively, which was said to be of their own Knowledge, was true, and what was mentioned therein, as heard by them, or received in writing from any other Person, they believed to be true.

After this Report had been made and agreed to, the ^{6th Anno} House was moved, that it might be transmitted to the Lord ^{1707-8.} High Admiral, which was readily assented to, and the same was transmitted accordingly, together with all the Depositions relating thereto.

On the 9th of January last, a Paper was laid before the House, which purported to be the Lord High Admiral's Answer, *viz.*

Admiralty, Jan. 8, 1707-8.

The Lord High-Admiral's Answer to the Report made to the House of Peers, from the Lords Committees appointed to consider of the Petition of several Merchants and others, Traders of the City of London.

THE Lords spiritual and temporal in Parliament assembled, having by their Order, bearing Date the 17th Day of December last, directed, that a Copy of the Report should be sent to the Lord High-Admiral, which was made to them on the same Day, from the Lords Committees appointed to consider of the Petition of several Merchants, on behalf themselves and others, Traders of the City of London, and of the Depositions to which the said Report doth refer; and the said Merchants having represented in their Petition, that they have, of late Years, sustained great Losses by the Insufficiency, by the Delays, and by the unseasonable Sailing of Convoys, and the want of Cruisers; his Royal Highness has thought it necessary, that this general Complaint, as well as the several Particulars contained in the aforesaid Report, should receive such Answers, as may set the whole Matter in a much truer Light than their Lordships can possibly have by those Papers only, from which the Report had been collected; And therefore it is desired that their Lordships will be referred to the following Particulars.'

1. As to the Insufficiency of Convoys.

The Lord High-Admiral does not observe any Instances given, where the Trades that usually proceed with Convoys have ever wanted a reasonable and sufficient Strength for their Security; and even the last Year, the stated Convoys have been much stronger than formerly. The Misfortunes of several Convoys being attacked by a superior Force, were no ways to have been prevented but by whole Squadrons: But it is to be observed, that all the Instances mentioned in their Lordships Report, happened in the latter Years of this present War. In the two first Years of her Majesty's Reign, there were not many Ships employed either in or towards

Anno 6 Anne, the *Mediterranean*, and even those not long absent from our
 1707-8. own Coasts; so that there were undoubtedly many more
 Ships, and those very proper too to be employed in the Defence of the Trade of the Nation, with respect not only to
 Convoys, but Cruisers: Whereas, in the latter Years of her
 Majesty's Reign, the public Service hath required the employing great Part of our Fleet Abroad in the *Mediterranean*;
 and altho' several Ships have returned from thence to *England* in the latter End of those Years, yet they have not
 been fit for any Service, until the Time appointed, wherein
 it was necessary they should be sent Abroad again; for they
 were such as were the least able to continue out, and consequently wanted the greatest Repairs.

2. As to the Merchants waiting long for Convoys after the Time promised and fixed for their Sailing.

The many constant, as well as accidental Services, which have absolutely required the Use of the Queen's Ships, have often left but very little Choice of Ships for foreign Convoys: But when Applications have been made by the Merchants, the proper Convoys have been ordered to be got in readiness by the Time desired, and not afterwards diverted to other Uses; yet it hath sometimes happened, upon their coming into the Dock, that they have been found, by a long and constant Use, in a much worse Condition than was hoped and expected. The Necessity of fitting Ships at different Ports for the same Convoy, and contrary Winds have often prevented their joining at the Rendezvous, and sometimes the want of Men, and Necessity of removing them from Ship to Ship, and the constant Care to pay the Men so removed before they sailed, may have occasioned the Delays complained of; yet, upon a strict Enquiry, it will appear, that the Delays are as often to be imputed to the Traders, who are seldom ready to sail altogether at the same time, and that the Queen's Ships have as often staid for the Merchants, as they for their Convoys; as their Lordships may observe from one Instance in the Paper here-with transmitted to them, marked A.

3. As to the want of sufficient Cruisers in the *Soundings* and *Channel*.

There hath every Year been a Provision made for Cruisers in the *Soundings*, *Channel*, *North Seas*, and never less than twelve for the *North Seas*, and fifteen for the *Soundings*, which were as many as other necessary and pressing Services would possibly admit of; but they have been very frequently diverted from the Service of cruising, upon the Applications of the Merchants themselves, either for the convoying up the *Channel* their homeward-bound Ships, or the fetching them

them from *Ireland*, or other Parts, and in convoying the *Anno 6 Anne*,
Traders to *Archangel*, the *Baltic*, *Holland*, &c. And there 1707-8.
hath been a Necessity to comply with this, because those
Services could not possibly be otherwise accommodated, un-
less some of the few Ships had been taken off, which were
on various Stations placed on the Coast, to secure the Trade
from one Port to another.

4. As to the Complaint of the arbitrary Proceedings of
the Captains of her Majesty's Ships, in impressing Seamen
from Merchant Ships in the *West-Indies*, and at their Return
into the Ports of *Great-Britain*.

If this hath been done, it is contrary to the constant and
direct Orders given to the said Captains, by which they are
required not to impress any Men from Merchant Ships in the
Plantations, without applying to, and receiving the Consent
of the respective Governors, and then never above one out
of five, which is more than have ever been exacted from
them during this War. And if, for the better manning her
Majesty's Fleet, any Men are taken from Merchant Ships
when they arrive here, the Captains of her Majesty's Ships
are strictly required to supply as many good Men in their
room, to bring them unto the Ports whereto they are designed,
and to send a careful Officer with them ; and when such Men
have performed those Services, they are allowed the usual
Conduct-money to enable them to repair to their proper
Ships again. But if this should be true, it must needs seem
hard to their Lordships, that the Merchants do impute to the
Lord High-Admiral, the Miscarriages of his Officers, which
have never been complained of to him without a proper
Redress.

5. As to the *Goffort*'s being taken in her Passage to the
West-Indies in *June 1706*, with several of her Convoys.

This was an Accident that could neither be foreseen nor
prevented ; and these Ships being taken almost three hun-
dred Miles in the Sea, on which Occasion, as the Queen's
Officers did all that was possible in the Defence of the Mer-
chant Ships, so it is hoped that their Lordships Justice and
Wisdom, will not make such Misfortunes criminal. And as
for the Particulars of that Action, they are contained in the
Paper marked *B*.

6. Another Complaint is, That the *Lisbon* Fleet, under
Convoy of the *Waspigts* and *Swiffture*, was attacked in
March, 1706-7, and fourteen Merchant Ships taken in the
Soundings.

This Convoy had the Misfortune to fall in with seventeen
Ships of the Enemies, which were going directly from *Brest*
& the *West-Indies*, and by the greatest Chance imaginable

Anno 6 Anne,
1707-8.

met them in their Passage ; the Particulars whereof are in the Paper marked *C*.

7. It is farther alledged, that the *Newfoundland* Fleet was attacked in *April*, under Convoy of the *Falkland* and *Medway* Prize.

Those two Ships did, in their Passage out of the *Channel*, meet with eight Sail of the Enemies Privateers from thirty to twenty Guns, with which they engaged, but carried all their Convoy's safe to *Newfoundland*, except two that made sail from them, and by that means fell into the Enemies Hands.

8. It is alledged, that a coasting Convoy was attacked in *April*, off the Land's-End.

This may be true, though this is the first Advice of it.

9. Another Complaint there is, That the *Hampton Court*, *Royal-Oak*, and *Grafton*, sailing from the *Downs*, the first of *May* last, were the next Day attacked, and the *Hampton Court* and *Grafton*, and about twenty Merchants Ships taken by the *Dunkirk* Squadron. Otherwise than that, they were in the *Flemish-Road*, notwithstanding what is sworn by Mr. *Dawson*, that he was told at the Admiralty Office, the said Squadron was gone westward ; for, upon the strictest Examination of all the Advices, and of the Minutes of the Office of that very Day, there does not appear any Notice of the Enemies Ships being sailed to the westward : Wherefore those three Ships, which were one of 76 Guns, and the other two of 73 Guns each, were judged a sufficient Convoy between the *Downs* and *Spithead*, nor were there then any Ships within reach to have strengthened them.

10. It is also alledged, that the *Russia* Ships outward-bound the last Year, were attacked by the Enemy, and sixteen of the Merchant Ships taken.

As to this Matter, their Lordships are desired to be referred to a Paper marked *D*, by which their Lordships will find a particular Account of that Affair, from the time that the Merchants did first apply for the Convoy ; and that Sir *William Whetstone*, with the Squadron under his Command, did conduct them to the Latitude of 63 Degrees, and that then leaving them to their proper Convoy, none of the Merchant Ships did fall into the Enemies Hands, but those whose Masters did actually leave the said Convoy, and that not till they were in the Latitude of 70 Degrees, about three Weeks after Sir *William Whetstone* parted with them.

11. Complaint is also made, that the Convoy was attacked the 10th of *October* last, which was conducting the Ships with Horses for the King of *Portugal*, and the Trade to *Lisbon*.

This Convoy was her Majesty's Ships the *Cumberland*, *Devonshire*,

Dorsetshire, Royal Oak, Ruby and Chester, which were two of *Anno 6 Anne*, 80 Guns, one of 76, and two of 50 Guns each, which were *1707-8.* thought to be a sufficient Convoy to *Lisbon* in the Opinion of the Merchants, till the Misfortune happened by the accidental Junction of two French Squadrons: But on this Occasion the Queen's Ships behaved themselves so well, that very few of the Merchant Ships were taken, and their Lordships will find a particular Account of this Affair in the Paper marked *E.*

12. The Merchants also complain, that they waited long for Convoys, and of the Prejudice they received, when they returned from Foreign Parts for want of Convoys to the River *Thames.*

This Head being general, their Lordships are desired to be referred to what hath been already said on this Subject in the beginning of this Paper.

13. They farther alledge, that they had Orders in *July*, 1704, to buy great Quantities of Corn for the King of *Portugal's* Use, and that in *July* and *August* they did the same; but that, notwithstanding their frequent Applications, they could not obtain Convoys till the 6th of *February* following.

This seems to be somewhat extraordinary; for they say, their Ships were ready to sail in *July* and *August*; whereas the latter of those two Months, there were Orders given to her Majesty's Ships the *Pembroke*, *Canterbury*, *Greenwich* and *Gloucester*, to convoy the Trade to *Lisbon*; and on the 6th of *September*, Sir *William Whetstone* was ordered, with the Squadron under his Command, to see them an hundred Leagues South South West from *Scilly*, which he did; and why the Ships that were ready in *July* and *August* (as is alledged) did not proceed with this Convoy, their Masters, or the Owners of them, or both, can give the best Account: Besides, there were several Ships of the *States-General*, which called at *Spithead* in their Way to *Lisbon*, and (as it had been concerted at the *Hague*) took our Merchant Ships under their Convoy. And here it may be observed, that although it had been found impossible to furnish Convoys for the Trade to *Portugal*, at the immediate Times the Merchants have applied for the same; yet there hath been twenty nine Convoys between *England* and that Kingdom, from the Month of *April*, 1703, to *October* last, and some of those Convoys no less than great Part of the Fleet, and at other Times considerable Squadrons; and particularly in the Year 1706, there were five Convoys in one Year, which makes it very improbable, that the King of *Portugal's* Magazines and Armies have been furnished with Corn from the *Baltic*.

14. They farther complain, that the Grand Fleet failed the

Anno 6 Annos, the 10th of August from Portsmouth, and did not take any
1707-8. Merchant Ships under their Convoy.

This was the Year 1706, when the Admiral of the Fleet had Instructions to proceed upon Services, not fit to be made public, which did consequently render it impracticable for him to take Merchant Ships in his Company.

15. Another Objection they make, that there was an Embargo laid on their Trade and Convoys.

It is presumed, that by the Word *Embargo*, they mean, that there was some little Stop put to their Proceedings, until there could be a more certain Account of the Intelligence received, that there was a Squadron of the Enemy's Ships in the *Scundings*, which proved afterwards (as they observed) to be *Dutch* homeward-bound Merchant Ships from the *West-Indies*.

It cannot be imagined, that this Caution was designed for their Prejudice, but rather entirely for their Service, as well as for the Safety of her Majesty's Ships; and as they own that the *Norfolk*, *Warrspight*, and *Exeter* did sail with their Trade, so do they alledge, that the *Nassau* did not join them for want of necessary Orders, for the Fleet did not sail till three in the Afternoon, and the *Nassau* came to *Spithead* before Night; whereas, on the contrary, the *Nassau* passed through the *Downs* the 14th of *October*, 1706, and got as far westward as *Folkestone*, but the Wind coming to the south-west, and there being a Likelihood of dirty Weather, she bore up for the *Downs* the 16th, from whence she sailed the 18th at six at Night, and arrived at *Spithead* the 20th, which was two Days after the Convoy sailed; And their Lordships may please to take notice, that a *Dutch* Convoy sailed the Beginning of *January*, 1705-6, in company of her Majesty's Ships; that the 25th of *February*, Captain *Price* sailed with five Ships of War; that the 27th of *March* following, Sir *George Bing* sailed thither with a Squadron; that the 18th of *June*, four other Ships of War sailed thither; and that in *July* the Merchants petitioned for a Convoy to go in *August*, which was appointed; and the Reason of their being stopp'd; and an Account of the whole Affair, their Lordships will be informed of by the Paper marked *F*.

16. They farther declare, that, by reason of the Insufficiency of this Convoy, several Merchant Ships were taken out of the Fleet off of *Portland*, and that afterwards, meeting with bad Weather in the *Bay of Biscay*, the *Warrspight* and *Exeter* came back disabled, and that the Trade, except some few Ships, proceeded to *Lisbon* with the *Norfolk* only.

The Convoy appointed for the Trade, were three Ships, one of 80, one of 70, and one of 60 Guns; and as this was thought

thought a sufficient Strength, so were there not at that Time ~~Amo 6 Annis;~~
any more Ships to reinforce them; nor could it be foreseen, 1707-8.
that two of the Ships would have been disabled in their Passage, though Accidents of that kind have, and frequently may happen.

17. Another Subject of their Complaint is, That great Numbers of Merchant Ships were in *Portsmouth* Harbour in the Month of *December*, 1706, and detained there for want of Convoy to the *Downs*, till the 23d of *April* following; and this, notwithstanding several of her Majesty's Ships were at *Spithead* (which they have enumerated) and that others came from the West, and did not call for them; and they particularly mention the *Suffolk* and *Bristol*.

All the Ships which the Merchants suppose lay idle at *Portsmouth*, during this Time, were under Orders for particular Services, as their Lordships may perceive by the Paper marked G.

18. Another Complaint is made, That in the Month of *October*, 1706, Mr. *Goward* and Mr. *Jones* let their Ships to the Commissioners for victualling, on condition that they should go directly to *Jamaica*; whereas they were carried from the *Downs* to *Portsmouth*, thence to *Portsmouth*, from that Port to *Ireland*, and then to *Barbadoes* and *Antigua*.

It is not doubted, but these Ships were taken up by the Commissioners for victualling, at so much a Month Freight; and her Majesty finding it necessary for her Service to send a Governor to her Island of *Barbadoes*, and some Forces which were to be embarked in *Ireland* with Provisions, and other Necessaries for the Plantations of *Nevis* and *Antigua*, there was a Necessity of these Ships accompanying the Convoy which was appointed for that Service, in regard there was not any other which was got in Readiness for them; and their Owners will be paid for the Time they have been employed in the Service of the Public, according to the Agreement made with them.

19. Mr. *Palmer* deposes, That in the Year 1705, a Ship, of which he was Part-Owner, with several others, were convoyed from the *Downs* to *Portsmouth* by the *Litchfield* Prize, but that, for want of Orders, she could not see them to *Plymouth*, where they might have joined the Fleet with Sir *Cloudesly Shovel*, bound to *Lisbon*.

Their Lordships may perceive how much this Person hath forgot himself, and imposed on them. For the *Litchfield* Prize did not arrive with the Trade at *Spithead* until the 7th of *June*; and Sir *Cloudesly Shovel* sailed from thence the 23d of *May*, passed by *Plymouth* the 25th of the said Month, and was off of *Lisbon* the 9th of *June*; so that the Fleet was actually

At the 6th Anne; tually at *Lisbon* two Days after the Time that this Gentleman says the *Lithfield Prize* might have joined them at *Plymouth*.

20. As a farther Evidence, the Merchants have produced to their Lordships the *Gazette* of the 8th of *May*, 1707; wherein there is the following Paragraph from *Ostend*, viz. 'A Fleet of Merchant Ships which lay five Months in the *Downs*, consisting of fifty five Sail, arrived at *Ostend* this Evening, to the great Satisfaction of this Place.'

This Advertisement was very ignorantly and unadvisedly inserted in the *Gazette*, the Fact itself being entirely wrong: For her Majesty's Ships, the *Lyon* and *Deal-Castle*, sailed to *Ostend* the 7th of *February*, and there were then no more than five Merchant Ships to accompany them; and Sir *Edward Whitaker*, with his Squadron, did the like the 17th of *April* following, and saw the Trade into that Port, and brought what was there from thence; but he carried with him not above fifteen Ships and Vessels; and how that Number could swell to fifty five, is somewhat strange: Besides, it doth not appear, that at any one Time, from *December* to the Month of *May*, there were more than five Merchant Ships in the *Downs* bound to *Ostend*, and above three fourths of that Time not so much as one; and yet the Advertisement in the *Gazette* says, That the fifty five Ships arrived at *Ostend* from the *Downs*, and that they had lain there five Months for a Convoy.

21. As to the general Article relating to the untimely and unseasonable Proceeding of Convoys, especially to the *West Indies*, their Lordships are desired to be referred to what hath been already said at the Beginning of this Paper, relating to that Matter.

22. The *Virginia* Merchants alledge, That in *October*, 1705, some of their Ships sailed from hence, under Convoy of the *Woolwich* and *Advice*, which were ordered to stay till reinforced from *England*; and that they were promised, the *Greenwich* and *Hazardous* should sail the first fair Wind in *January* following; but that they did not sail till *May*, which occasioned their not reaching *Virginia* till *August*.

The *Greenwich* and *Hazardous* were ordered for this Service the 26th of *February*, 1705-6, but could not get clear from *Plymouth* till the 24th of *April*, and on the 27th they were forced by bad Weather into *Falmouth*; but the *Hazardous* sailed soon after; for the *Greenwich* was disabled, and forced to come to *Plymouth* to refit: However, the said Ship, *Greenwich*, sailed from *Plymouth* the first of *June*, and arrived at *Virginia* the 11th of *August*; and the 17th of *September* came from thence, with the *Hazardous*, *Woolwich*, and

and Advice, and 182 Merchant Ships, and arrived with them Anno 6 Anne, in the Channel in November following:

23. The said *Virginia* Merchants have farther represented, That, in hopes of Convoys proceeding from hence to *Virginia*, the last Spring, many Ships that carried Stores from hence to *Lisbon*, and others from *London*, proceeded to *Virginia*, but remained there till September last, expecting Convoy, and must now come home without, in the Winter-Season. And, altho' the last Spring her Majesty, in Council, ordered a Convoy to be ready in *August*, yet the said Convoy remains at *Portsmouth*.

The Delays and Misfortunes which have happened this Year to the *Virginia* Traders, are, in a great measure, to be attributed to the different Interests and Opinions of the Merchants and Planters concerned in that Trade, to the frequent westerly Winds, which have hindered their Departure, and to the Delays occasioned by several Merchants letting their Ships to the *Portugal* Convoy, for transporting Horses to *Lisbon*; which will be more particularly explained to their Lordships by the Paper marked *H*.

24. They farther declare, That, for some Years past, there hath not been a Frigate appointed to take Care of the *Virginia* Coast; for want of which, many Ships have been taken going in, and coming out.

The Men of War which convoy the *Virginia* Ships have usually Orders to cruise between the Capes, while the Trade is loading: The *Strombolo* had those particular Orders; and the *Gosport*, which was taken in her Passage, (and which may occasion this Complaint) had the same; and the *Garland* is now upon that Service; and the Ships going to *Virginia* have the same Directions.

25. Complaint is made by Mr. *John Wood*, of the Difficulties he met with in September, 1706, and some time after, in getting a Ship of his, called, *The Union* Frigate, to *Portsmouth*.

This Ship took in her Loading of Corn at *Shoreham*, one of the most difficult Ports along the Coast to get out from: But when the Ships of War are ordered, either eastward from *Portsmouth*, or westward from the *Downs*, they have always Directions to call at the several Ports in their Way; and several have been unsuccessfully appointed, to get the Ships and Vessels out of this Harbour.

26. The said *Wood* does also affirm, That, in the Months of *April*, *May*, and *June* last, he had several Ships freighted with Corn at *Shoreham*, which could not proceed to *Spithead*, by reason of the Enemy's Privateers: That at last there

Amo 6 Anne, 1707-8. was a Convoy appointed, but soon after ran away, and left the Ships, upon a Report that the Dunkirk Squadron was upon the Coast.

The Convoy here meant, was the *Charles Galley* and *Gosport*, tho' several others were before appointed to get those Vessels out of the Harbour: However, the aforesaid two Ships did do it about the 19th of June, 1707, and, being on their Way towards Spithead, they received an Express from the Mayor of Hastings, with an Account, that there were eighteen Sail of French Men of War coming from the Eastward, with all the Sail they could make; which Advice, altho' it proved false, was not safely to be neglected: But so far were her Majesty's Ships from running from the Trade, upon this Intelligence, (as is falsely and maliciously insinuated) that they kept them Company, and brought them safe to Spithead, as the Captain of the *Charles Galley* gave an Account, in his Letter of the 20th of June, 1707; and those Ships which occasioned the Alarm, were her Majesty's Ships the *Defiance* and *Advice*, with their Convoys, from the Downs.

27. Mr. Winter deposes, That he came from Gibraltar the 14th of March lost, in Company of the *Pearl*, *Hanover*, and *Lodington* Galleys; and off of *Beachey Head*, two of them were taken by French Privateers.

These Ships were all Runners, (or, at least, called so) and had they put into *Portsmouth*, until an Opportunity of Convoy had presented, the Person who complains of these Losses would not have run the Hazard he did. Nor, can it be thought, that these Ships, which the Merchants call Galleys can, when they are laden and foul, sail much better than other Ships, not under that Denomination; and therefore are consequently as much subject to Misfortunes, by going without Convoy; and, it is very reasonable to believe, that till this trading by Galleys or Runners grew so much in Fashion, the Losses were much less; and so, it is to be hoped will be again, when the Merchants will learn to alter their Way of Trading, as the Enemy hath altered their Method of carrying on the War by Sea.

The remaining Part of their Lordship's Report, relate chiefly to (viz.)

1. Our Merchant Ships being chased off of *Beachey*, and the Parts thereabouts, by the Enemy's Privateers.
2. The Advantages to the *Mediterranean Trade*, by carrying it on with Galleys; but the Hazards they run in their Return Home, for want of Cruisers in the *Soundings* and *Channel*.

3. A French Privateer's chasing a Dutch Ship into P. ^g Anno 6 Anne, ^{1707-8.}
 past, on, or about the 14th of November last; whilst three Wild Convoys ^{1707-8.} rid fast for want of Orders.

4. That the List of 1146 Sail of Merchant Ships lost, was far short of the real Number.

5. The Inconveniencies by pressing Men in the West-
 Indies, and at their Return.

6. The Complaint of Mr. Benjamin Way, That the Captain of the *Northumberland* did not take Care of his Ship, called *The London Galley*, which failed from *Jamaica* the latter end of *February* last.

As to the first, second, and fifth of these Articles, their Lordships are desired to be referred to what hath been already said.

Then, as to the third, which relates to the chasing of a Dutch Dogger, it seems not at all material, only to swell a Complaint; but, as to what is infinuated, that the three Men of War did not stir, for want of Orders; it is well known, that when her Majesty's Ships get sight of an Enemy, they stand in need of no particular Orders to attack them; for their general Instructions, annexed to their Commissions, do sufficiently require that of them; but this happening at five a Clock in the Evening, in the Month of November, it was impossible for any of the three Ships aforesay'd, to have come up with the Privateer; and the Dutch Ship was secure under the Guns of the Fortification.

The Lord High Admiral cannot, without great Concern, take notice of the List of 1146 Ships, said to be lost during this War: Altho' it is possible great Part of that Number consists of Galleys or Runners: That some Part of this Loss may be attributed to the inevitable Fate of War; and some hath arisen from the Wilfulness or Negligence of Masters of Merchant Ships, who, when sufficient Convoys have been granted them, have deserted that Protection, and exposed themselves a Prey to the Enemy, of which frequent Complaints have been made.

Lastly, As to the sixth Article, which is the Complaint of Mr. Way, That Care was not taken of his Ship from the *West-Indies*, their Lordships are desired to be referred to the Copies of two Letters herewith transmitted to them, marked *L*: and *K*: the one from Sir John Jennings, and the other from the Captain of the *Northumberland*, the which give a particular Account of that Matter, which was not complained of at the Admiralty-Office, before it was brought to their Lordships.

Thus much being said to the Report of the Lords Committees, grounded upon the Depositions of the Merchants,

Anno 6 Anne, 1707-8. which are partly what they say of their own Knowledge, and the rest, what they have gathered from others; the Lord High-Admiral thinks it necessary to lay before their Lordships some farther Observations, under the following Heads, to explain some Papers which have been demanded by their Lordships from the Admiralty Office.

1. That, notwithstanding almost the continual Use of her Majesty's Ships, the Loss sustained by Storms, (particularly in the violent Tempest in the Year 1703,) and the many Hazards they have been exposed to in this expensive War; the Number of Ships of the Royal Navy is so far from being diminished, since her Majesty's Accession to the Throne, that it is increased by ten Ships of War, altho' the Parliament hath not, in this Reign, given one Farthing of Money for building of Ships; and that the last War there was about four Millions given for that, and other extraordinary Services; and yet the Royal Navy was less in Strength at the End thereof, than at the Beginning, by twenty Ships of the Line of Battle.

2. That the Number of Ships of the Navy of France, which have been taken or destroyed by her Majesty's Ships this War, does much exceed our Losses, as will plainly appear by the two Papers marked L. and M. wherein there is no mention made of the French Ships, which have been taken or destroyed by the Ships of the States General.

3. That during the present War, there hath been 175 of the Enemy's Privateers taken, and many of them of considerable Force.

That in the last War, which was declared the 7th of May, 1689; and ended the 10th of September, 1697, the whole Number of the Enemy's Ships taken and condemned was 1296; whereas in the present War, which was declared the 4th of May, 1702, unto the first of December, 1707, the Number of Ships taken from the Enemy, and condemned, is 1346, which carries with it no little Disproportion.

4. That the Recaptures by her Majesty's Ships of War, from the 4th of May, 1702, to the 1st of December, 1707, are 128, which amounted, by Appraisement, to above the Sum of 82,975 £, and the Recaptures by Privateers within that Time, 38,054 £, both which Sums amounts unto 121,030 £, exclusive of Customs.

5. That in the last War, the trading Part of the Nation had the Misfortune to lose near 4000 Ships; whereas in this War, themselves have given an Account but of 1146, and it were to be wished, that even that Loss could have been prevented. But here it may be observed, that, during the last War, we had the Ports of Spain, as well as those in the Spanish West-Indies,

Indies, always open to secure our Merchant Ships and Vessels, Anno 6 Anne,
not only from the Enemy, but from bad Weather: Whereas,
during the whole Course of this War, our Trade hath been
entirely debarred from that so essential a Countenance and
Protection.

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7. Besides, whilst her Majesty has yearly fitted her Royal Navy for carrying on the War Abroad, the Enemy hath, ever since the Battle off of *Malaga*, totally altered their Methods of carrying on their Naval War: And instead of sending forth great Fleets, they fill the Seas with Privateers, and with Squadrons of their nimble Ships, and by that means watch all Opportunities of seizing upon our Trade, for which the Situation of their Ports gives them but too good Opportunities; and yet our Merchants (who cannot but be sensible of this Danger) carry on their Trade in a very great degree, in defenceless Ships called *Runners*; and they being obliged by Charter-Party to go without Convoys, are thereby but too often exposed to the Enemy, who lie in wait for them.

Lastly, The Lord High Admiral desires their Lordships to do him so much Justice, as to believe, that no Man is more sensibly affected than he is, with the great Losses and Misfortunes which have happened to the Merchants; and he is so much the more sensible of them, because, in the Way those Gentlemen carry on their Trades by single, defenceless Ships, and by the Method the Enemy now takes, whilst the French King himself, and so great a Part of his Subjects, employ so many Ships and Men only to make War upon the Merchants, such Misfortunes will still happen; yet his Royal Highness does hope their Lordships will believe, that the Queen's Fleet has not been useless and unemployed during this War; which cannot be carried on, agreeable to the declared Sense of their Lordships, but by supporting a Superiority at Sea, upon the Coasts of *Portugal*, *Spain*, and *Italy*: in all which Places the Queen's Fleet hath done great Services the last four Years, and attempted some Things which might have secured *Britain* for one Age, from all the Naval Power of *France*.

The House took this Answer into their most serious Consideration, and finding several Facts stated therein very differently from what had been asserted by the Merchants, upon their Oaths, (who had therefore, according to the Methods of Justice, a Right to be farther heard by way of Reply) and finding several other Things alledged in the Answer, which at first sight seemed to be plain Mistakes, we thought it necessary, for our fuller Information and Satisfaction, to appoint a Committee to hear the Merchants, and also to make such Observations upon the Answer, as they should think proper.

Anna & Anne,
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The Committee having perfected their Report, and laid it before the House, the same was agreed to, and we think ourselves obliged humbly to present this second Report to your Majesty.

Die Martis 17 Februario, 1707-8.

Second Report
of the Lords
Committee.

IN relation to the first Head of the Answer, which is conceived in general Terms, without being applied to any of the Particulars in the Merchants Complaints, some Things seem proper to be taken Notice of.

1st, The Answer says, That all the Instances mentioned in the Report, are in the latter Years of her Majesty's Reign.

The Lords Committees observe, That an Address of the House of Lords, presented to her Majesty in the Year 1704, did lay before her the heavy Losses of the Merchants, which had happened for want of Cruisers and Convoys for the Home-Trade.

Soon after the presenting of that Address, Sir George Bingley and Sir John Jennings were sent out to cruise, and continued cruising till the October following, during which Time the English Ships were well protected, and many of the Enemy's Privateers taken; and the Lords hoped there would have been no farther Occasion of Complaints from the Merchants: And all the Losses contained in the Report, now before the House, have happened since that Care was laid aside.

2dly, It does appear by the Papers sent to the House from the Lord High-Admiral, That in the Year 1706, the highest Complement of the Ships employed in the Mediterranean (supposing them manned to that Complement) did not exceed 17373 Men; and in the Year 1707, the highest Complement of the Ships employed there, did amount only to 15590 Men. And therefore, notwithstanding that part of the Fleet which was made use of there, in both those Years, yet about 15000 Men of the Numbers provided for by Parliament, remained for the necessary Service of guarding and protecting the Coast and Trade; so that it seems not possible, that the keeping those Squadrons in the Mediterranean, could be the Occasion of the Cruisers and Convoys being so weak and few, and the Coast so ill guarded.

3dly, The Strength of Convoys is to be proportioned to the present Circumstances of the Enemy, as far as Intelligence can be had, and the many Instances mentioned by the Merchants of Convoys attacked to our Disadvantages, shew by Experience, that most of our Convoys have been too weak.

The

The second Head of the Answer is also general, but the *Answer & Annexes,*
 Lords Committees observe, that the great Ships are the
 Strength of the Line of Battle, and if more first and second
 Rates had been employed in the *Mediterranean*, instead of so
 many third and fourth Rates, and smaller Ships, a much
 greater Number of Ships proper for Convoys and Cruisers,
 for the Protection of Trade in the *Channel* and *Soundings*,
 would have remained free for those Services; or, if there
 was found to be a real Want of such Ships, timely and proper
 Application might have been made to the Parliament, who
 have ever been forward in providing for the Security of
 Trade. And, in the mean time, Ships might have been
 hired, as has been often done, rather than the whole Coast
 should continue in a manner besieged by the Enemies Men
 of War and Privateers, without Interruption.

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2. The Want of Seamen is too well known, which pro-
 ceeds principally from the many Hardships they suffer. The
 constant Practice now in use in turning over, or removing
 them from Ship to Ship, is of all others the greatest Dis-
 couragement, and though the paying them at the same time
 they are turned over, may have a fair Appearance, yet that
 being generally done when they are abroad, it tempts the
 Seamen to extravagant Expences, and proves in conclusion
 the utter Ruin of their Families.

3. Many of the Inconveniences mentioned in this Para-
 graph of the Answer, could hardly ever happen in case an
 early Distribution was made of proper Ships for Convoys,
 and the Time of their Departure fix'd; whereas very fre-
 quently Ships are appointed when they are at Sea, and it is
 unknown in what Condition they will return. The Mer-
 chants say, That this Year one of the Convoys named for the
Jamaica Trade, was at that Time in the Sound.

The Answer says, The Queen's Ships have as often stayed
 for the Merchants, as they for their Convoys; of which one
 Instance is given in the Paper marked *A*. The Fact may
 be so sometimes; but the Case mentioned in the Paper is
 not of that Sort; for there the Merchant Ships were lying
 in the *Draughts*, together with the *Affistance* and *Dunkirk* Prize,
 two of the Ships of Captain *Kerr's* Squadron, and were
 ready to sail, and did sail with them to *Spithead*, where the
 rest of the Squadron lay. And, tho' it be asserted, that Mr.
Kerr's Ships were ready the 18th of *February*, at *Spithead*,
 yet it appears, that his Instructions do not bear Date till
 the 3d of *March*, 1706-7.

As to the third Head, relating to the Want of Cruisers,
 the *Lords Committees* observed, That it is not the appoint-
 ing Cruisers yearly, which will protect Trade, but the care-
 ful

Amo 6 Anne, ful and strict Observation, that the Ships appointed for that Purpose do cruise accordingly.
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Whereas it appears in the Account of the Disposition of the Fleet, laid before the House of Lords, That no Ship was cruising in the *Soundings and Channel*, in the Months of *June, July, August and September* last, in which almost all the Galleys and homeward-bound Ships, whose Loss was so heavily complained of by the Merchants, were taken and destroyed.

In relation to the arbitrary Proceedings of the Captains of the Queen's Ships of War, in impressing Seamen out of the Merchant Ships in the *West-Indies*, as also upon their Return to the Ports of *Great-Britain*, the fourth Paragraph of the Answer says, if any such thing has been done, it is contrary to Orders, and has never been complained of without a proper Redress. Upon reading this Passage, the Lords Committees summoned Mr. *Coward* (to whose Complaint principally that Part of the Answer related) who attending, and being examined as to the Matter of Fact, made Oath, that he had often complained to the Prince's Council of these great Hardships, and begged Relief from them, before he applied to the House of Lords; that he could mention many other Instances of the ill Usages he had suffered in the same kind.

That Year after Year, from the Beginning of the War, not one of his Ships had escaped, having Men pressed out of them both at *Jamaica*, and upon their Return (if there then was a Press) except such as had run through all Danger into the *Downs*, and so got to *London*.

In particular he swore, that he had complained to the Prince's Council, of Captain *Johnson*'s impressing his Men out of the *Somerset* Frigate, and Captain *Roche*'s impressing his Men out of the *Walthamstow* Galley, as also of taking away his Men out of the *Gold* Frigate, and produced to the Prince's Council the Evidence he had of these several Facts, but could not learn, that any of the Captains were punished or censured, or so much as once called to an Account for their Violences.

He also swore, that all the Captains he had employed to the *West-Indies* have declared to him, that they who impressed his Men at *Jamaica*, never shewed any Authority or Consent from the Governor for so doing; and he affirmed, he was ready to produce many Captains, who would swear the same Thing.

He said, if such Orders are given as is asserted in the Answer, the Prince's Council well know, by the frequent Complaints of him and others, they are not observed either at *Jamaica*, or at *Home*.

In the Sixth Paragraph of the Answer, which relates to Anno 6 Anne, the Loss of the *Lisbon Fleet*, under the Convoy of the *Swiftsure* and *Waspfight*, it is stated in this manner: ' This Convoy had the Misfortune to fall in with seventeen Ships of the Enemy's, which were going directly from *Brest* to the *West-Indies*, and by the greatest Chance imaginable met them in their Passage.'

And in the Paper marked *C.* (to which the Paragraph refers) after reciting an Account given by the Captain of the *Swiftsure* of this Action, and that most of the Merchant Ships escaped, the Paper *C.* proceeds thus: ' That as there was not any previous Notice of this Squadron of the Enemy's Ships, so if greater Strength had been added to this Convoy (which was not then to be had) it would have been but of little Advantage against such a Number of the Enemy's Ships.'

This seems so strange a Representation of this Affair, that it is necessary to lay before the House, the true Matter of Fact, as it appears upon a careful Examination of it by the Lords Committees.

First, As to the Assertion; that there was no previous Notice of this Squadron of the Enemy.

The Lords Committees refer to the Advices concerning the *French Shipping* sent to the Admiralty from the Secretary of State the last Year, (which Advices are now lying before the House) particularly to an Extract of a Letter from Mr. Secretary *Harley*'s Office, dated at *Rotterdam* the 7th of *February*, N. S. and sent to M. *Burchett* the 11th of *February*, O. S. giving an Account of the Squadron of Ships then lying at *Brest*, and another from the Earl of *Sunderland*'s Office, dated at *Paris* the 4th of *February*, N. S. and sent to Mr. *Burchett* the same 1st of *February*, O. S. As also to another Letter from *Brest* of the 3d of *February*, N. S. sent from the Earl of *Sunderland*'s Office, to the Admiralty the 14th of *February*, O. S. giving a particular Account of the same Squadron, and the Strength of it, and that it was ready to sail, and to another dated at *Brest* of the 14th of *February*, N. S. sent from Mr. Secretary *Harley* to the Prince's Council the 24th of *February*, O. S. to the same Effect.

Secondly, As to the Assertion, that there was then no greater Strength to be had, it is to be observed, that a *Dutch* Fleet of nine Men of War, under the Command of Admiral *Vandergoes*, had laid for some time at *Portsmouth*, and sailed from thence the very same Day that Captain *Griffiths*, who commanded this Convoy, sailed in the *Swiftsure* from the same Place.

If Orders had been given to Captain *Griffiths* to have kept
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Anno 6 Anne, Company with the Dutch Squadron, there had been a sufficient Strength to have saved all the Ships under his Convoy.

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But it appear'd, by the Examination of Mr. Jacob Henckell, Mr. William Wood, Captain Francis Cook, and Captain Edward Smith, two Masters of the Merchant Ships which went under his Convoy, and also by a Letter of Captain John Hunt, another Master, dated from Dinant, where he was then a Prisoner, that Captain Griffiths was guilty of divers molt unaccountable Delays off of Plymouth, and thereby lost the Advantage of keeping the Dutch Fleet Company.

On the 23d of February, Captain Griffiths made a Signal of seeing seven Ships, and afterwards seeing seventeen; but, instead of making the best of his Way from them, he lay by with an easy Sail (not suffering any of the Merchants to go a-head of him) till those Ships came within Gun-shot, (although he could not but discern them not to be English Ships long before, and if they had been English, he had no Occasion to speak with them.) When those Ships were come so near, they put out French Colours; and thereupon the two Men of War, the *Swiftsure* and *Waspigbt*, made all the Sail away possibly they could, leaving the Merchants Ships, and Ships with Provisions for Spain and Portugal, which Captain Griffiths had under his Care, to shift for themselves, and of 18 Merchant Ships that were in the Company, 13 were taken, so that most of them did not escape, as is asserted in the Answer.

It was also proved, that these French Ships were cruising, and not going directly to the West-Indies, as the Answer asserts, and that they kept cruising all together about nine Days after this Action, and then sent their Prizes with five of their Men of War into Brest, and the rest of the Men of War continued cruising about 14 Days longer, and then they also returned to Brest.

It was farther proved, that the Letter wrote from Dinant by Captain John Hunt, complaining of Captain Griffiths's Behaviour, was by Sir Edmund Harrison and Mr. Henckell laid before the Prince's Council, who told them, they had been informed of the Matter before, and were sending Directions to Lisbon to have Captain Griffiths tried; to which Sir Edmund Harrison then objected, that such a Trial must signify very little, since no Evidence could be had against him at that Place.

Notwithstanding, there was an Order sent in April last, for trying Captain Griffiths at Lisbon, at a Court-Martial. The Lords Committees having desired to know what was done upon that Order, have been since informed by a Paper dated from the Admiralty-Office to this Effect, that he was tried

accor-

accordingly; and it is presumed he was acquitted, because Anno 6 Annas, he was continued in his Command: But the Result of the Court-Martial is not sent to that Office; and he who acted as Judge-Advocate at the Trial is since drowned. The same Paper goes on to say, that the Trial was at the Desire of the Merchants, because there was no Evidence against him at Home.

Whereas it is observed before, that Sir *Edmund Harrison* told the Prince's Council, there would be no Evidence against him if he were tried at *Lisbon*.

The ninth Paragraph of the Answer relates to the Loss of the *Hampton-Court* and *Grafton* Men of War, which, together with the *Royal Oak*, and the Merchant Ships under their Convoy, sailed from the *Downs* the first of *May* last.

The Answer affirms, that, notwithstanding what Mr. *Dawson* swore before the Lords, that he was told at the Admiralty-Office, the 29th of *April* last, that the *Dunkirk* Squadron was gone westward; yet there was no Notice at that Time of the *Dunkirk* Squadron, otherwise than that they were in the *Flemish-Road*: Wherefore the three Men of War, one of 76, and the other two each of 70 Guns, were judged a sufficient Convoy from the *Downs* to *Spithead*.

Mr. *Dawson* being ordered to attend the Lords, and acquainted with what was charged upon him, did again affirm upon Oath, that the Governor and Committee of the *Muscovia* Company, of which he was one, attended the Prince's Council on *Tuesday* the 29th of *April* last, to know what Convoy was appointed for that Trade; and, being told by the Prince's Council, that one fourth, and two fifth Rates would be their Convoy, the Governor and Committee represented their Fears of Danger from the *Dunkirk* Squadron; but were then told from the Board, they need be under no Apprehension on that Score, for the *Dunkirk* Squadron was gone to the Westward.

He also mentioned many Circumstances, which made him so very positive as to the Time; and observed, that if the Committee had been told at the Board, that the *Dunkirk* Squadron was then in the *Flemish-Road*, it was so far from being an Argument to persuade them to acquiesce with so small a Convoy, that it must have increased their Fears, that Station being equally proper for the Squadron to sail, either to the northward or westward.

Sir *Benjamin Aylaff*, Governor of the *Muscovia* Company, and five of the Committee of the same Company, (viz.) Mr. *Randolph Knipe*, Mr. *Henry Phill*, Mr. *Josiah Wadsworth*, Mr. *Thomas Stiles*, and Mr. *Samuel Heathcote*, did also

Anno 6 Anne, severally depose, that they did attend the Prince's Council,
 1707-8. the 29th Day of April last, and then were told from the Board, that the three Ships designed for them were sufficient for their Security, because the Dunkirk Squadron was gone westward, and four of them, (viz.) Sir Benjamin Aylaff, Mr. Wadsworth, Mr. Styles, and Mr. Pbill, swore, they believed Admiral Churchill was the Person that told them so, but, as to that Particular, they were not so positive.

This Matter of Fact being directly proved by so many Persons of unquestionable Credit, the Lords Committees think, that, by the Reasoning used in the Answer, the Prince's Council could not judge the three Men of War a sufficient Convoy, and consequently ought to have suffered them to sail westward on the first of May; especially considering, that from time to time Notice had been sent to the Admiralty-Office, from both the Secretaries of State, of the Strength of the Dunkirk Squadron; and when it is so fully proved, that they owned, that they had Notice that the Squadron was gone westward.

The tenth Paragraph of the Answer relates to the Complaint of the Merchants, touching the *Russia* Ships.

The Instructions to Sir William Whetstone, of the 10th of June last, take notice, that the Dunkirk Squadron was gone northward, and that there was Reason to believe they were designed for the Coast of Norway; and that they would look out for, and endeavour to intercept the Fleet bound to *Russia* for naval Stores; which made it absolutely necessary, that the Convoys to that Trade should be strengthened; and he is thereby directed to proceed with all the Merchant Ships under his Convoy, as far as the northernmost Part of the Isle of Shetland, and there to leave them to prosecute their Voyage with their proper Convoy.

The Lords make this Observation, that, after such Intelligence, it appears very reasonable, that Sir William Whetstone's Orders should have been, to see a Fleet of such Consequence out of Danger, before he left them.

The Lords Committees do think it necessary to inform the House, that Captain *Nenyon Masters*, Commander of the Ship *Nenyon* and *Benjamin*, made Oath, that, on or about the ninth Day of July last, his Ship, together with about eleven or more English Ships, were unfortunately taken in their Voyage to *Archangel*, by the Chevalier *Fourbin*'s Squadron, consisting of seven French Ships of War: That his Ship was the first taken, and he was immediately carried on board Monsieur *Fourbin*, who demanded of him what Number of Convoys the English Fleet bound for *Archangel* had with them. He answered, Twelve Sail: To which *Fourbin* replied, he spake what was false, for there were only three

Ships of War Convoy to the English Fleet; Fourbin then declaring, that he knew Admiral Whetstone, with his Squadron, came with the Fleet no farther than the Isle of Shetland, and then returned back again.

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As to the eleventh Head of the Answer, respecting the Merchants Complaint of the Weakness of the Convoy sent for conducting the King of *Portugal's* Horses and the Trade to *Lisbon*, the Lords Committees do only make this Observation, that the Fleet having lain at *Spithead* for many Months, whereby the Enemy had an Opportunity of knowing the Value and Consequence of it, and Notice being taken in the Orders to Captain *Edwards*, of the 7th of *September*, 1707, of a Squadron of the Enemies Ships cruising betwixt *Scilly* and *Urbant*, and Notice being also taken in the Orders of the 6th of *October* to Sir *John Leake*, that Monsieur *Fourbin* was sailed from *Brest* with several Ships, and was to be joined with others, it seem very unaccountable, that at last such a Fleet should be suffered to sail without a greater Strength.

The 13th, 14th, 15th and 16th Paragraphs of the Answer, relating principally to the former Deposition of Mr. *Jacob Henckell*, the Lords Committees ordered him to attend again; and he was farther examined in relation to the Facts mentioned in the Answer.

He desired to observe, that the 13th Paragraph made him say what was not in his Deposition; for he did not say, the Corn-Ships were ready to sail in *July* and *August*, but, that a great Quantity of Corn was bought in those Months.

If any thing was concerted at the *Hague*, that the Ships of the *States-General* should call at *Spithead*, to take our Merchant Ships under their Convoy, it was strange no Notice should be given of so good an Agreement, that so the Merchants might have disposed their Affairs for taking the Benefit of it, especially when he and other Corn-Merchants very frequently applied to the Prince's Council, to know when they might expect a Convoy.

As to what is said of the great Number of Convoys which have gone between *England* and *Portugal* since *April*, 1703. Whereas the *Dutch* have seldom sent above one Convoy in a Year, and the Inference made from thence, that therefore it is not probable the King of *Portugal's* Magazines and Armies should be furnished from *Holland*,

Mr. *Henckell* still affirmed the Fact to be so as he had formerly sworn, and that, at the very Time of his Examination, the *Portuguese* have great Quantities of Corn shipped in *Holland*; and tho' the *Dutch* have not sent so many Convoys as have gone from *England*, yet they go at certain and proper

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proper Times, by reason whereof their Corn arrives in a good Condition; whereas the unaccountable Delays and Uncertainties of the *English* Convoys have been the Occasion of great Losses to our Merchants, and great Disappointments to the *Portuguese*.

He also took notice, that of the many Convoys enumerated in the Answer, several of them were Fleets or Squadrons of Men of War, of which the Merchants had no Notice, nor were allowed to have any Benefit, as appeared by the 14th Head of the Answer, relating to the Fleet that sailed with Sir *Cloudsley Shovel*.

In the 14th Head of the Answer, much Weight seems to be laid upon this, that the *Nassau* did not arrive at *Spithead* till the 20th of *October*, whereas Mr. *Henckell*, in his Complaint, had sworn the *Nassau* came to *Spithead* the 18th at Night, the same Day the Convoy sailed from thence. To clear himself, Mr. *Henckell* produced two original Letters signed by *Cornelius Collier*, his Captain, written from *Portsmouth*, the one dated the 19th of *October*, which says, the *Nassau* came too late for the Convoy, but was at that Time at *Spithead*; and the other dated the 25th, which says expressly, the *Nassau* came to *St. Helens* the same Night the *Lisbon* Fleet sailed. Mr. *Henckell* affirmed also, that he had other Advices which fully verified what he had said in his former Deposition, as to the *Nassau*'s arriving the 18th at *Spithead*.

Mr. *Henckell* farther said, that the Convoy mentioned in that Paragraph of the Answer, consisting of four Ships of War, which is there said to have sailed the 18th of *June*, does appear by the Paper marked *F*. (to which the Paragraph refers) to be a Convoy that sailed from *Portugal* that Day, and so does not contradict what the Merchants had insisted on in their Complaint, that there was no Convoy for *Portugal* between *March* and *October*, a homeward-bound Convoy being mistaken in the Answer for an outward bound Convoy, and consequently it was no Contradiction to what the Merchants had affirmed: And tho' in the 16th Paragraph of the Answer it be asserted, that the three Ships appointed for Convoy to the *Portugal* Fleet, were at that Time thought a sufficient Convoy, Mr. *Henckell* swears, the Prince's Council (by the Reasoning of the Merchants before them) was convinced of the contrary, at the Time the Convoy was sent, and did then pretend no other Reason for their not strengthening it, but want of Ships. And he desired to refer particularly to the Remonstrance of the 10th of *October* last, which was delivered at that Time by the Merchants to the Prince's Council, and is now lying before the House;

whereby,

whereby, in very strong Terms, they represented their many *Anno 6 Annæ,*
 Solicitations without Effect, the great Delays they had met *1707-8.*
 with, and their great Sense of Danger, if they should pro-
 ceed without that Convoy, as well as of their certain Ruin
 by any farther Delay.

The 17th Head of the Answer says, that the Ships which
 the Merchants supposed lay idle at *Portsmouth* so long, were
 under Orders for particular Services, as appears by the Pa-
 pers marked G.

Upon Consideration of this Paragraph, and of the Paper
 marked G. to which it refers, the Matters of Fact, whereof
 the Merchants did complain, seem, in effect, to be admitted
 to be true; and the Services for which it is alledged the Ships
 were designed, do not appear so pressing, but that some of
 them might have been employed to help the Merchants in
 their great Extremity.

As to the 18th Head, which relates to Mr. *Coward's*
 Complaint of the long detaining of his Ships let to Freight to
 the Commissioners of victualling; the Answer says, it is not
 doubted they were taken up at so much a Month freight, and
 the Owners will be paid for the Time they have been em-
 ployed, according to the Agreement made with them.

Mr. *Coward* deposed, that his Ships were not taken by
 the Month (as the Answer alledged) but the Contract was at
 three Pounds a Tun, directly for *Jamaica*, which might
 have been performed in seven or eight Weeks: Whereas,
 by means of the Deviations complained of, they have been
 detained ever since the 15th of *November*, 1706, and were
 yet in *Ireland* at the Time of the Complaint, whereby the
 Ships are ruined, and he left at Mercy, as to any Satisfaction.

The 19th Paragraph of the Answer takes notice, how far
 Mr. *Palmer* had forgot himself, and imposed upon the Lords
 in his Deposition, for that the *Litchfield* Prize did not arrive
 at *Portsmouth* till the 7th of *June*; whereas Sir *Cloudesly Shovel* was off of *Lisbon* the 9th of *June*; and therefore it was
 not possible that the *Litchfield* Prize should have joined him
 at *Plymouth*.

Mr. *Palmer* being examined as to this particular, said,
 That in this Complaint it was alledged, the *Litchfield* Prize
 came to *Spithead* the 7th of *July*, not of *June*, as it is re-
 peated in the Answer; but he owned his Mistake in saying,
 If the *Litchfield* Prize might have proceeded to *Plymouth*, the
 Corn-Ships might have joined Sir *Cloudesly Shovel's* Fleet;
 whereas he meant to have said, the Transport-Fleet, which
 at that Time lay at *Plymouth* bound to *Portugal*.

To shew that it was a mere Mistake, he produced to the
 ...rds three original Letters from *Portsmouth*, wrote by his
 Master,

Anno 6 Annae, Master, *Richard Riccard*, dated the 7th, 12th, and 28th of July, which mention the Transport-Fleet, which had lain for a considerable while at *Plymouth*, and (as those Letters say) failed for *Portugal* about that Time.

The twentieth Paragraph, affirming that the Article in the *Gazette* of the 8th of *May*, 1707, which the Merchants had produced, was very ignorantly and unadvisedly inserted, the Fact being entirely wrong; the Lords Committees thought fit to be informed, how that Passage came to be put into the *Gazette*; and upon Examination it appeared, that *Mr. Stepney* the 12th of *May*, N. S. wrote a Letter from *Antwerp* to the Earl of *Sunderland*, at the Solicitations of some considerable Traders there, representing the Hardships they lay under for want of a Convoy from *Ostend*, (tho' it had been promised, and several Times notified on the *Exchange of London*) to their great Loss and Discouragement, and what was like to have an ill Influence on that Trade, which was in a Way of being better established than ever; and that, afterward, upon the Arrival of that Fleet at *Ostend*. *Mr. Stepney* wrote another Letter to the Earl of *Sunderland*, dated the 14th of *May*, N. S. the very Words of which second Letter are those transcribed into the *Gazette*.

The Complaint of the Merchants, in relation to the *Virginia* Trade, consisted of many Particulars; none of which seem to the Lords Committees to be answered or excused, by what is alledged in the 22d, 23d, and 24th Paragraphs of the Answer, nor by the Paper marked *H*, to which the 23d Paragraph does refer.

The 25th and 26th Paragraphs of the Answer, which relate to the Complaint of *Mr. John Wood*, of the Difficulties and Delays he met with in getting his Vessels, loaden with Corn, to *Portsmouth*, containing nothing in particular, besides one Matter of Fact, *viz.* That the *Charles Galley* and the *Gosport*, the two Convoys for the Corn-Ships to *Spithead*, were so far from running from the Trade (as was fatly and maliciously insinuated by *Mr. Wood*) that they kept the Merchant Ships Company, and brought them safe to *Spithead*, as the Captain of the *Charles Galley* informed the Prince's Council by Letter.

Mr. John Wood being sent for, and charged with this Matter, produced two Letters, which he made Oath were sent to him from *Portsmouth*, by Captain *Edward Friend*, the Master of one of the Corn-Ships; the first dated the 21st, and the other the 22d of *June* last, wherein it is expressly affirmed, that, about eight o'Clock in the Evening, the Commander of the Convoy sent his Boat aboard the Merchants, to tell them the News, that the *Dunkirk* Squadron was at Sea, and

and at the same time to let them know that the Convoy will Anno 6 Anne, take no farther Care of them, but would make the best of 1707-8. their Way to *Portsmouth*, and the Merchants must shift for themselves.

Captain *John Falkner*, the Master of the *Mary*, another of the Ships from *Shoreham*, made Oath, that the Commander of the Convoy sent his Boat aboard the Merchants, to tell them, that he had Advice of a *French* Squadron, and that they must shift for themselves; for they would take no Care of them, but would make the best of their Way to *Portsmouth*, and he swore the Convoys were as good as their Words, and made away with all the Sail they could, and got in thither a considerable Time before the Merchants, who were in very great Danger of being taken, having been chased at least eight Hours by a *French* Privateer.

The same Captain did, upon his Oath, confirm what Mr. *Wood* had before alledged, that for full six Months, while he lay at *Shoreham*, the *French* Privateers did continually cruise on the Coast in considerable Numbers; but in all that Time he could never see or be informed of any Man of War cruising to prevent or intercept them.

As to what is said in the Answer, that the Men of War who sail eastward or westward, have always Directions to call at several Ports in the Way; Mr. *Wood* added to what he had said before, that if they had such Orders, it was strange not one of them should ever appear off of that Harbour in six Months Time.

The 27th Paragraph of the Answer relates to the Merchants Complaints of the many and great Losses of Ships off of *Beachey*, and upon the *English* Coast in their Return Home.

What this Paragraph says, is, that these Ships were Runners, and should have put into *Portsmouth* till they had an Opportunity of Convoy; but when the Merchants shall leave off trading in these Galleys or Runners, (which are subject to many Misfortunes by going without Convoy) it is to be hoped their Losses will be less.

Their Lordship cannot think it strange, if the Merchants are very unwilling to put into *Portsmouth*, in hopes of Convoy, after the Instances given by them of their Ships lying there for many Months, in vain Expectation of Men of War to convoy them.

As to the Proposal for the Merchants leaving off to trade in Galleys, in Expectation of Convoys: The Lords Committees observe, the Use of this kind of Vessels was taken up during the late War, and has been continued ever since with very great Success till within two Years last, during which Time there has been, in a manner, a total Neglect of

Anna 6 Anne, having any Cruisers in the *Channels* or *Soundings*, or any
1707-8. Men of War to guard the Coasts.

These Ships are built for sailing, and also to row with Oars, and carry no more Goods than are proper for sailing, and carry twice the Number of Men to a common sailing Ship, and are of Force from sixteen to forty Guns.

There is no Convoy granted to any Trade within the *Streights* but to *Turkey* only, which is never above once in the Year, and must be acknowledged to be too seldom to answer the Occasions of the Traders to *Leghorn*, *Genoa*, *Venice*, and other Places in those Seas.

If therefore the Use of Galleys or single Ships be laid down, (for if any single Ships be used in trading, it will be granted, the Galleys are better Sailors, and have the Advantage of any common built Ships) and all the *Mediterranean* Trade is to be carried on by Convoys, that whole Trade will be in a manner lost to *England*, especially in respect to Fish, and other perishable Commodities; and would be soon felt in a very heavy Manner in all Parts of the Nation, the great Consequence of that Trade fully appearing by the Merchants Proofs set down in the Report made upon their Petition.

It is necessary for the Safety and Honour of the Kingdom, and of all manner of Trade whatsoever, that the *Channel* and *Soundings* be well guarded; and if this be done, the Traders in Galleys own they have no Reason to complain.

The Enemy have not altered their Way of making War by Sea: They always endeavoured to infest our Trade by their Privateers, to as great a Degree as they could; but it must be owned, that of late they have had greater Success than ever, and the great Encouragement they met with, (the Sea, in effect, being laid open to them) it is too probable will soon increase their Numbers.

The Merchants do insist, that the List of 1146 Ships, given in by them, does not contain all their Losses during this War, but, in a manner, such only as have been taken in the *Channels* and *Soundings*, within two or three Years last past, and principally such as do belong to the Port of *London*.

They have already had an Account of thirty-four Ships taken in the *Channels* and *Soundings*, since they made their Complaint to the House of Lords; of which Ships they delivered a List to the Committee, and affirmed, that the Loss of those Ships, by a modest Computation, amounted to above 17,000*l*. They affirmed, that besides those named in that List, several other rich Ships are missing, and many of them, they fear, have met with the same Fate, the *Channel* and *Soundings* being infested with the Enemy's Men of War and

Privateers as much as ever. The neutral Ships which come Anno 6 Annoe, into the Ports of Britain, declaring, that they have been ^{1707-8.} boarded by them in those Places several Times in a Day.

The Answer (as to what concerns Mr. Benjamin Way) says expressly, that Matter was not complained of at the Admiralty-Office, before it was brought to the Lords.

This seems very strange, for it appears plainly by the two Letters marked *J* and *K*, referred to in the Answer itself, and sent therewith to the Lords, that both of them were written upon Occasion of a Complaint made by *Way* to the Admiralty, and are only Copies of the very same Letters which were annexed to *Way's* Complaint to the Lords, and were sent together with the Lords Report to the Lord High-Admiral.

This is what the Lords Committees have humbly to offer to your Lordships, in relation to so much of the Answer as concerns the Merchants Complaints.

The remaining Part of it seems entirely foreign to the Subject of the Report, containing only an unnecessary Comparison of the Management of the Naval Affairs in this and the late War; since any Faults or Errors, which might have happened at that Time, would not lessen the Misfortunes of the Merchants, or justify any wrong Conduct at present. But the Lords Committees think themselves obliged to lay before your Lordships, several very plain Mistakes which they find in this Part of the Paper.

In the first Observation it is asserted, that the Parliament has not, in this Reign, given one Farthing of Money for the building of Ships; and that in the last War there was about four Millions given for that and other extraordinary Services, and yet the Royal Navy was less in Strength at the End thereof, than at the Beginning, by twenty Ships of the Line of Battle.

This is so far from being a right State of the Case, that in this Observation there appears, at first Sight, a Mistake of no less than three Millions in four, the whole Sum given for building of Ships in the last War not amounting to one Million.

This, in effect, was afterwards confessed in a second Paper sent from the Admiralty-Office, of the 28th of January, 1707, by way of Explanation of a former Paper delivered to the Lords Committees from that Office.

In this second Paper, Notice is taken of the Numbers and Rates of Ships provided for by Parliament, and the Days are set down when the Money was voted for them, but the Sums are omitted, which would have too plainly contradicted the Assertion, that four Millions were granted.

Ango 6 Apræ,
1707-8.

The true State of that Matter will appear by the fore-mentioned second Paper, if the Sums be added, as the same are set down in the first of those Papers from the Admiralty-Office, and is as follows.

There was given for building Ships.

| | l. s. d. |
|---|---------------------|
| 10 Octo. 1690, of the 3d Rate, No 3 — | 88008 10 00 |
| 24 Dec. 1690, of the { 3d { Rates { 17 { 570000 00 00 4th } 10 } | |
| 2 Dec. 1692, of the 4th Rate — 8 — | 79368 00 00 |
| 30 Nov. 1694, { of the 2d Rate — 4 { 70000 00 00 6 Dec. 1695, } 138424 00 00 | |
| 6 Dec. 1695, of the { 3d { Rates { 4 { 65835 18 11 4th } 8 } | |
| | <hr/> 1011576 08 11 |

Memorandum, That the one-third Excise which was given for 570000 l. did produce but 842617 l. 11 s. and two Pence Halfpenny, of which there has been paid for building the twenty seven Ships 453591 l. 19 s. and to other Uses 29025 l. 12 s. and two Pence Halfpenny.

These were all the Sums granted by Parliament for building Ships during that whole War: The other Sums set down in the first Paper, which makes the whole Amount to 4579571 l. 4 s. and two Pence Halfpenny, were either for the ordinary and current Service of the Navy, as Seamen's Wages, Victualling, &c. or for such particular Uses as had no Relation to the building of Ships, such as the Payment of marine Officers, Register of Seamen, &c.

The second Mistake in this Observation is, that the Royal Navy, instead of being less at the End of the late War by twenty Ships, than it was at the Beginning, was increased by one hundred and thirteen Ships and Vessels, of which thirty nine were of the Line of Battle, besides twenty one Ships which were building on the 30th of December, 1697, whereof thirteen were of the Line of Battle.

And though in the same Observation it be alledged, that nothing has been given in this Reign for building of Ships, yet the Provision for the Navy in general, has been much larger in this War than in the last; for in this Reign there has been granted for the Use of the Navy (including the Ordnance for Sea-service, and the Sums voted for the Service of the Year 1708) the Sum of 15366867 l. 17 s. 10 d.

Whereas all the Sums received by the Treasurers of the Navy,

Navy, between the 5th of November, 1688, and the 30th ^{Anno 6 Annis} ~~of September, 1697,~~ ^{1707-8.} (including the Money given for building Ships) only amounted to the Sum of 15136898 £. 15s. 5d.

It may be also observed, that in the Year, 1698, there were one hundred and five Ships of the Line of Battle in thorough Repair; whereas it appears that on the 6th of December, 1707, three first Rates, eight second Rates, six third Rates, and two fourth Rates wanted rebuilding or great Repairs, which, considering the Nature of the Ships, makes a great Part of the Strength of the Line of Battle.

The Second Observation takes notice, that the Number of the Ships of the Navy of France, taken or destroyed by her Majesty's Ships this War, does much exceed our Losses, as appears by the Papers marked L and M, where there is no mention of the French Ships destroyed by the Ships of the States General.

The Lords Committees take notice, that by the Paper L, it appears the greatest Number of the Enemies Ships, and those of the greatest Consequence, were taken nor destroyed in the Harbours of *Vigo*, *Gibraltar*, and *Ostend*; at the two first of which Places the Ships of the States General assisted.

And that during the War, only twenty five Ships of all sorts have been taken or destroyed by cruising Ships at Sea, and of that Number only five Ships from 30 to 60 Guna.

By the Paper marked M, it appears that the Number of her Majesty's Ships and Vessels taken and destroyed by the Enemies, during the present War, are thirty five, thirteen whereof are Ships of the Line of Battle, from 50 to 80 Guna.

The Sixth Observation is, that, in the last War, the Trade of the Nation had the Misfortune to lose near 4000 Ships.

This appeared so very strange to the Lords Committees, that they sent, to the Admiralty-Office to be informed, if there were any Lists of those Ships, or what Grounds they had for making that Assertion.

The Answer sent in Return to this Message, was a printed Paper, without any Name of the Author or Printer, in which are these Words: 'It is generally allowed, that the Number of Ships and Vessels miscarried since the War, does not fall short of 4000.'

Upon Consideration of this Paper, it appeared to be a Libel, written as a pretended Answer to an Account published by Authority in the Year 1695, of what Men of War and Privateers had been taken from the French, from the Beginning of that War; and, it contains in it not only scandalous Reflections upon the Parliaments of that Reign, but notoriously false Representations of Matters of Fact, which might have easily been known to be so at the Admiralty-

June 6 A.M.
1707-8.

Admiralty-Office ; and therefore it seems very strange, that such a Libel should be offered as a Proof to the Lords, in an Answer which is supposed to come from that Office.

But, as an Evidence that there can be no Foundation of Truth for this Assertion, the Lords Committees offer to your Lordships Consideration, that the Number of *English* Prisoners, who have been returned from *France*, from the Beginning of this War to *December* last, amounted to 18011, and there then remained in *France* 2000 more; whereas the Number of *English* Prisoners returned from *France*, from the Beginning of the late War, until the 24th Day of *June*, 1698, did amount to no more than 15250.

And it is not probable, that the Ships taken in former Wars should be so many more than those taken in the present (as is pretended) when the Prisoners are so remarkably fewer.

To the latter Part of this *Sixth Observation*, That during the last War, we had the Ports of *Spain*, as well as those in the *Spanish West-Indies*, open to secure our Ships, not only from the Enemy, but from bad Weather.

The Lords Committees say two Things : *First*, That till now, they never heard that the Ports in the *Spanish West-Indies* were at any time open to secure *English* Men of War or Merchant Ships.

Secondly, That the many great Losses complained of by the Merchants, appear to have been in the *Channel* and *Soundings*, and consequently the *Spanish* Ports, though open, would have been no very essential Countenance and Protection to them.

May it please your Majesty,

We having thus performed what we take ourselves to be indispensibly obliged to, cannot doubt but it will be graciously accepted by your Majesty, as coming from most dutiful Subjects, who sincerely wish they may never have Occasion hereafter of making Addresses to your Majesty, but to congratulate your Success, or to return our humble Acknowledgments for the Blessings of your Reign.

We beseech your Majesty to believe, that none of your Subjects do exceed us in true Respect to his Royal Highness the Lord High-Admiral : His great personal Virtues require it, and his near Relation to your Majesty makes it our Duty : And as we do not mean that any thing in this Address should in the least reflect upon him, so we are very well assured, his Royal Highness will never suffer other Persons to protect themselves under his Name, from a just Pursuit of such Faults or Neglects, as immediately tend to the Ruin of Trade, and the Destruction of *Britain*.

There

‘ There cannot be a plainer Proof, that some Persons em-^{ployed by the Lord High-Admiral have made the worst.} Anno 6 Annas
 ‘ Use imaginable of the Trust he honours them with, than
 ‘ in their presuming to lay such an Answer before the House
 ‘ of Lords in his Name.

‘ For (not to take notice of the many Things which in
 ‘ the second Report have been already laid before your Ma-
 ‘ jesty) throughout the whole Paper, there is no Hopes gi-
 ‘ ven, that for the future, any better Care shall be taken of
 ‘ the Trade; on the contrary, the whole Turn of the An-
 ‘ swer seems to be intended for exposing the Complaints of
 ‘ the Merchants, rather than pitying their Losses. We are
 ‘ sure nothing can be more remote from the Goodness and
 ‘ Compassion of the Lord High-Admiral’s Temper, and the
 ‘ tender Regard he has always shewn for your Majesty’s
 ‘ Subjects.

May it please your Majesty.

‘ It is a most undoubted Maxim, that the Honour, Secu-
 ‘ rity and Wealth of this Kingdom does depend upon the
 ‘ Protection and Encouragement of Trade, and the improv-
 ‘ ing and right managing the naval Strength. Other Na-
 ‘ tions, who were formerly great and powerful at Sea, have
 ‘ by Negligence and Misconduct lost their Trade, and seen
 ‘ their maritime Strength entirely ruined. Therefore we
 ‘ do in the most earnest Manner beseech your Majesty, that
 ‘ the Sea Affairs may always be your first and most peculiar
 ‘ Care. We humbly hope that it shall be your Majesty’s
 ‘ chief and constant Instruction to all, who shall have the Ho-
 ‘ nour to be employed in your Councils, and in the Admini-
 ‘ stration of Affairs, that they be continually intent and
 ‘ watchful in what concerns the Trade and Fleet; and that
 ‘ every one of them may be made to know it is his particu-
 ‘ lar Charge to take care that the Seamen be encouraged,
 ‘ the Trade protected, Discipline restored, and a new Spirit
 ‘ and Vigour put into the whole Administration of the
 ‘ Navy.’

Her Majesty’s most gracious Answer to the Address.

My Lords,

“ I Will take Care to make the most useful Observations
 “ on the several Particulars contained and referred to in
 “ your Address.

“ It was always my Opinion, That the Encouragement
 “ of Trade and Seamen, and the good Management of the
 “ Navy, are of the greatest Importance to the Prosperity of
 “ this Kingdom.

“ And

Anne & Anne, 1707-8. " And therefore you may be assured, I will use my utmost Endeavours to encourage all those whose Duty it is, effectually to perform those Services."

The Pretender arrives at Dunkirk. While the Nation was thus busied in the Enquiring into the Mismanagements of the Fleet and Army, it was alarm'd by the Arrival of the Pretender at *Dunkirk*, with a Body of French Troops; and the Preparations that were made there for their Embarkation. It was immediately apprehended that this Expedition was design'd against her Majesty's Dominions; and Mr. Secretary * *Boyle* acquainted the House of Commons, with the Advices her Majesty had received of an intended Invasion; whereupon an † Address was drawn up, in which the House of Lords concurr'd, and on the 5th of *March* both Houses attended her Majesty with it.

Lords Address of Congratulation on the Miscarriage of the intended Invasion. But the Sight of Sir *George Bing*, with a strong Squadron, struck such a Panic thro' the French Fleet, that this Affair came to nothing: On which Occasion the Lords attended her Majesty with an Address, *March* the 13th, thanking her for the vigorous Methods she had taken against the Pretender, and assuring her of their Concurrence; and suggested also, that the inconsiderable Forces the Enemy employed in this Attempt, must proceed from some Invitation from hence; and was an undeniable Proof, that neither the Mildness of her Majesty's Government, nor the Successes of her Reign, could reconcile some Men to the Establishment: They hoped her Majesty would have a just Detestation of those Persons, who, at the Time of this hellish Attempt, were misrepresenting the Actions of her best Subjects, and creating Jealousies in her Majesty of those, who had always serv'd her most eminently and faithfully; and desir'd no such Persons might have Acceptation for the future: And they hoped her Majesty would principally depend upon, and encourage those, who had been, ever since the Revolution, most steady and firm to the Interest of the late King and her Majesty.

To which her Majesty reply'd, as follows:

My Lords,

Her Majesty's Answer. " I Am extremely sensible of your Zeal and Concern for the Safety of my Person and Government, and am very well pleas'd to find your Thoughts agree so exactly with

* Afterwards Lord Carleton. Mr. Harley (finding himself struck at by the Practices tried on Greg, one of his Clerks, under Sentence of Death for giving Intelligence to France) had resigned on Disgrace, Feb. 11, and was followed by Sir Thomas Mansel, Mr. St. John, and Sir Simon Harcourt, Attorney-General.

† See the said Address in *CHANDLER's Hist. Anne & Anne*, 1707, Page 89.

" with mine, that no Attempt of our Enemies against us at Anno 7 Anne,
 " Home, should divert us from prosecuting the War Abroad
 " with the greatest Vigour; the Hope of which has proba-
 " bly been one of their principal Motives to so presumptuous
 " an Undertaking.

" As I cannot but wish there were not the least Occasion
 " of Distinction among my Subjects, so I must always place
 " my chief Dependance upon those who have given such re-
 " peated Proofs of the greatest Warmth and Concern for the
 " Support of the Revolution, the Security of my Person,
 " and of the Protestant Succession."

April the 1st, The Queen came to the House of Peers, and
 put an End to the Session with a Speech, which see in
 CHANDLER's *History, Anno 7 Anne, 1708, P. 97.*

Among the other Acts passed at this Time was that to
 make further Provision for electing and summoning sixteen
 Peers of Scotland, to sit in the House of Peers in the Parlia-
 ment of Great Britain, and for trying Peers for Offences
 committed in Scotland, and for the further regulating of
 Votes in Elections of Members to serve in Parliament.

By this Act it is provided, that a Proclamation shall Manner of elect.
 issue, commanding all the Peers of Scotland to assemble at the 16 Seats
 the Place therein appointed, to elect sixteen Peers to sit in Peers, &c.
 the House of Peers in Great Britain: which Proclamation
 shall be published in Edinburgh, and in all the Country Towns
 in Scotland, twenty-five Days before the Time appointed
 for such Election.

All the said Peers, before they proceed to Election, in The Electors to
 the Presence of the Peers assembled, shall take the Oaths take the Oaths
 of Allegiance and Supremacy, appointed by the 1 Will. and
 Mary, Sess. 2. cap. 2. make Declaration against Transub-
 stitution, and take the Oath of Abjuration, viz.

I, A. B. do sincerely promise and swear, That I will be Oath of Allegia-
 nce, faithful, and bear true Allegiance to her Majesty Queen Anne.
 So help me God.

I, A. B. do swear, That I do, from my Heart, abhor, Of Supremacy
 detest, and abjure, as impious and heretical, that damnable
 Doctrine and Position, that Princes excommunicated, or
 deprived by the Pope, or any Authority of the See of Rome,
 may be deposed, or murdered by their Subjects, or any other
 whatsoever, And I do declare, That no Foreign Prince,
 Person, Prelate, State, or Potentate, hath, or ought to have,
 any Jurisdiction, Power, Superiority, Pre-eminence, or Au-
 thority, Ecclesiastical or Spiritual, within this Realm.

So help me God.

Anno 7 Anne,
1708.

And shall also make, repeat, and subscribe the Declaration following, *viz.*

Declaration a-
gainst Transub-
stantiation.

I, *A. B.* do solemnly and sincerely, in the Presence of God, profess, testify and declare, That I do believe, that in the Sacrament of the Lord's Supper there is not any Transubstantiation of the Elements of Bread and Wine, into the Body and Blood of Christ, at or after the Consecration thereof by any Person whatsoever: And that the Invocation, or Adoration of the Virgin *Mary*, or any other Saint, and the Sacrifice of the *Mass*, as they are now used in the Church of *Rome*, are superstitious and idolatrous: And I do solemnly, in the Presence of God, profess, testify, and declare, That I do make this Declaration, and every Part thereof, in the plain and ordinary Sense of the Words read unto me, as they are commonly understood by *English* Protestants, without any Evasion, Equivocation, or mental Reservation, whatsoever; and without any Dispensation already granted me for this Purpose by the Pope, or any other Authority, or Person whatsoever; or without any Hope of any such Dispensation from any Person, or Authority whatsoever; or without thinking that I am, or can be acquitted before God, or Man, or absolved of this Declaration, or any Part thereof, although the Pope, or any other Person, or Persons, or Power whatsoever, should dispense with, or annul the same, or declare that it was null and void from the beginning.

And also take and subscribe the Oath following, *viz.*

Abjuration
Cath.

I *A. B.* do truly and sincerely acknowledge, profess, testify, and declare, in my Conscience before God and the World, that our Sovereign Lady Queen *Anne* is lawful and rightful Queen of this Realm, and of all other her Majesty's Dominions and Countries thereunto belonging: And I do solemnly and sincerely declare, that I do believe in my Conscience, the Person pretended to be Prince of *Wales*, during the Life of the late King *James*, and since his Decease pretending to be, and taking upon himself, the Stile and Title of King of *England*, by the Name of *James III.* or of *Scotland*, by the Name of *James VIII.* or the Stile and Title of King of *Great-Britain*, hath not any Right or Title whatsoever to the Crown of this Realm, or any other the Dominions thereunto belonging. And I do swear, that I will bear Faith and true Allegiance to her Maj:sty Queen *Anne*, and her will defend to the utmost of my Power, against all traitorous Conspiracies, which I shall know to be against her, or any of them: And I do faithfully promise, to the utmost of my Power, to support, maintain, and defend, the Succession of the Crown against him, the said *James*, and

and all other Persons whatsoever, as the same is, and stands *Anno 7 Anno 1708.*
 settled by an Act, entitled, An Act declaring the Rights and Liberties of the Subject, and settling the Succession of the Crown to her present Majesty, and the Heirs of her Body being Protestants: And as the same, by one other Act, entitled, An Act for the further Limitation of the Crown, and better securing the Rights and Liberties of the Subject, is, and stands settled, and entailed, after the Decease of her Majesty, and for Default of Issue of her Majesty, to the Princess Sophia, Electress and Duchess Dowager of Hanover, and the Heirs of her Body, being Protestants: And all these Things I do plainly and sincerely acknowledge and swear, according to these express Words by me spoken, and according to the plain, and common Sense and Understanding of the same Words, without any Equivocation, mental Evasion, or secret Reservation whatsoever: And I do make this Recognition, Acknowledgment, Abjuration, Renunciation, and Promise, heartily, willingly, and truly, upon the true Faith of a Christian.

So help me God.

Such Peers as live in *Scotland*, and are not present at such Peers Electors Meeting, may take the said Oaths, &c. in any Sheriffs Court in *Scotland*, which shall be returned by the Sheriffs to the Peers assembled; and thereby such Peers shall be qualified to make a Proxy, or send a List of the sixteen Peers he votes for.

Peers of *Scotland*, residing in *England*, may take the said Oaths, &c. in the Courts of *Westminster*; which being certified by Writ to the Peers, shall entitle him to make a Proxy, and send a List as aforesaid.

And any Peer, absent in her Majesty's Service, who has taken the said Oaths, &c. before such Proclamation, such Peer may make his Proxy, or send a signed List.

Peers of *Scotland*, who are Peers of *England*, shall sign their Proxies and Lists, by the Title of Peerage in *Scotland*; and no Peer shall be capable of having more than two Proxies at one Time.

The Certificate of the Peers elected shall be returned by the Clerk, Register, &c. into the Court of Chancery, before the Meeting of the Parliament.

The Peers shall come to such Meetings, but with their ordinary Attendants, and shall not treat or debate of any other Matter there on pain of incurring a *Premunire*. All Matters concerning the Election of the said sixteen Peers, directed by the Articles of Union, and the Act made in *Scotland* for settling the Manner of the said Election.

Ann^o 7 Anne, 1708. t^{ion}, and which was confirmed by the *Act of Union*, § 4. c 8. shall be observed, except where it is otherwise provided by this *Act*.

Where any Person shall die, or be legally disabled to sit, her Majesty shall issue a Proclamation for electing another as aforesaid.

Where any Peer of *Great-Britain* shall commit Treason or Felony in *Scotland*, a Commission shall issue under the Great Seal of *Great Britain*, constituting Justices to enquire by the Oaths of good and lawful Men of such County of *Scotland*, as shall be named therein, of all Treasons and Felonies there committed by any Peers of *Great Britain*; which Inquisition shall be taken in the same manner, as Indictments before Justices of *Oyer and Terminer* of any County in *England*, and be proceeded on in the same manner, as where a Peer is indicted for such Offence in *England*.

Every Person who shall refuse to take the aforesaid Oath of Abjuration, at the Election of a Member of the House of Commons, or being a Quaker refuse to declare the Effect thereof upon his solemn Affirmation, as directed by the 7 W. 3 (which Oath, &c. the Sheriff, or other Return Officer, at the Request of any Candidate, or other Person present, is required to administer) shall be incapable of giving his Vote at the Election of a Member of the House of Commons.

The Parliament was prorogued to the 30th of April, but dissolved the 15th; and the 22d a Proclamation was issued for calling another t^{asked} the 26th, and returnable July the 8th. And, May the 10th, pursuant to the *Act* for rendering the Union more complete, a Privy Council was constituted for the whole United Kingdom, consisting of the following Persons, *viz.*

A new Parliament called;

And a new Privy-Council.

The Lord Archbishop of *Canterbury*.

William Lord *Cowper*, Lord Chancellor of *Great Britain*.
Sidney Earl of *Godolphin*, Lord High Treasurer.

The Earl of *Pembroke*, Lord President.

John Duke of *Newcastle*, Lord Privy-Seal.

William Duke of *Devonshire*, Lord Steward.

James Duke of *Ormond*.

Henry Marquis of *Kent*, Lord Chamberlain.

James Earl of *Derby*.

Thomas Earl of *Stansford*.

Charles Earl of *Sunderland*, Principal Secretary of State.

Charles *Bodvile* Earl of *Radnor*.

Charles Earl of *Berkeley*.

Francis Earl of *Bradford*.

Hugh Earl of *Cholmondeley*.

Henry Lord Bishop of *London*.

William

William Lord Dartmouth.

Henry Boyle, Esq; Principal Secretary of State.

Thomas Coke, Esq; Vice-Chamberlain.

Sir John Trevor, Master of the Rotis.

Sir Thomas Trevor, Lord Chief Justice.

Sir Charles Hedges.

James Vernon, Esq;

John Howe, Esq;

Thomas Erle, Esq;

Anno 7 Annis,

1708.



This Summer was, Abroad, distinguished by the Victory ~~Exploit Abroad~~, obtained at *Oudenarde*, which, tho' both glorious and advantageous to the Allies, was not so decisive as either that of *Blenheim* or *Ramellies*, the French making good their Retreat, and repelling all the Attempts that were made to put them into Confusion.

The Siege of *Lille*, one of the strongest Places in the World, was next undertaken by the Confederate Generals, in the Sight of an Army superior to their own; which had posted themselves so advantageously, as to cut off all Communication between the Besiegers and *Brussels*; whereby Ammunition of all Sorts began to fail; and the Consequences might have been greatly calamitous, if General *Webb* had not, with incredible Conduct and Bravery, both covered the grand Convoy committed to his Charge, and with a Party of but 6000, defeated an Army of between 23, and 24,000, which had been detached to make sure of a Supply which was of such immediate Importance to the Confederates.

But the Merit of this gallant Action was, by Mr. *Cardonnel*, the Duke of *Marlborough*'s Secretary, ascribed solely to Lieutenant General *Cadogan*, who did not come up till it was entirely over, and the Enemy retreating in Disorder; without the least Mention of Mr. *Webb*, who thereupon quitted the Army in Disgust, and very frankly set forth the Injury which had been done him, both to the Queen and the whole Nation.

In this Interval the Elector of *Bavaria* invested *Brussels*, but was kept at Bay by the Governor and Garrison, till the Confederates passed the *Scheld* to their Relief: Upon which he abandoned the Siege in Confusion, leaving his Artillery and wounded Men behind him.

The Town of *Lille* had already capitulated, and now the Citadel did the same. And the Reduction of *Ghent*, which had been before betrayed to the French, finished the Campaign on that Side.

In Spain the Duke of *Orleans* reduced *Tortosa*, *Denin* and *Alicant*: But to countervail these Advantages, Sir *John Leake* conquered *Sardinia*, and General *Stanhope* *Minorca*: And

Anno 7 Anne, And in the *West-Indies* Commodore *Wager* had an Engagement with the *Spaniſh* Galleons, in which the Admiral blew up, another Galleon was run ashore, and the Rear-Admiral was taken; being mounted with 54 Brass-Guns, and her Lading of an immense Value.

Death of Prince George. Prince *George of Denmark* dying October the 28th,

The Second Parliament of GREAT BRITAIN, or First summoned by Writ,

WAS opened by Commission, November the 16th, and the Commons having chose their Speaker, the Lord Chancellor made a Speech, the 18th, to both Houses; which see in *CHANDLER'S History, Anno 7 Anne, 1708. Page 99.*

Lord's Address of Condolance, &c. Their Lordships, on the 20th, drew up an Address of Condolance on the Death of the Prince, which was presented in a private Manner, as being most acceptable to her Majesty, by the Marquis of *Dorchester*.

They said, they could not forbear condoling with her Majesty upon the great Loss sustain'd in the Person of the Prince, whose eminent Virtues must render his Memory ever dear to them and the whole Kingdom: But they begged she would moderate her Grief, and take care of her Health, upon which the Hopes of her People, and the Safety of *Europe*, so much depended.

They congratulated her Majesty on the Success of the Campaign, and promised her their Assistance in prosecuting the War, being convinced, they said, that no Peace could be safe or honourable, till the whole Monarchy of *Spain* was restored to the House of *Austria*; and, as her own Subjects made such extraordinary Efforts, they desired she would press her Allies who were more nearly concerned, to shew an equal Vigour.

That they shoud do every thing on their Parts towards perfecting the Union; and that they would support her Majesty and the Protestant Succession, against all Pretenders, and all her Enemies.

Address of both Houses on the reducing of Ghent. Before the Parliament adjourned for the Holidays, both Houses agreed on an Address to the Queen, which was presented by the Lord Chancellor, and the Speaker of the House of Commons. In this Address they congratulate her Success in the Reduction of *Ghent*, The last great Effort of this glorious Year, which would (they said) be ever famous in History, as well for the entire Disappointment of all the Attempts and Hopes of her Enemies, as for the many wonderful

derful Successes with which God had bless'd her Arms. That *Anno 7 Anne*,
the unusual Length of the Campaign, the Variety of Events 1708-9.
and the Difficulty and Importance of the Actions, had given
many Opportunities to her Majesty's General, the Duke of
Marlborough, to shew his consummate Ability, and all the
great Qualities necessary for so high a Trust.

The House of Peers on the 12th of *January*, having sum- Debate on the
moned their Members to attend, took into Consideration the State of the Na-
State of the Nation in relation to the late intended Invasion,
of *Scotland*; and the Lord *Haverham* opened the Debate
with the following Speech :

My Lords,

‘ I have a greater Respect for your Lordships than to Lord Haver-
keep you in any Expectation ; there is nothing I can say, I am.
am sure, can in the least deserve it.

My Lords,

‘ When the Campaign was at an End, when a Land-Tax
lay on your Table, when the due Respect had been paid to
that Sorrow, in which we all bear a Part, when the Session
of Parliament was so greatly advanced, and a long Recels so
near at Hand, I thought it might be a proper Time to put
your Lordships in mind of the late intended Invasion ; and
the rather, because an Enquiry into this seemed to me to be
what the Nation expected, and what I have observed, even
those who have differed in their Thoughts about it, yet una-
nimously desired ; but above all, because it is a Matter, in
which not only our Welfare and Happiness, but our very
Being itself, the Security of the Nation, and Safety of her
Majesty are so highly concerned.

‘ I did endeavour to prove the first of these to your Lord-
ships, when I made you this Motion, by Reasons taken from
the flourishing of your Trade, the support of your Credit,
the nature of your Victories, and the quieting of Men's Minds
at Home ; and shall now, with your Lordship's Leave, say a
few Words to the other Part, and shew your Lordships how
much this Enquiry concerns us all in point of Safety.

‘ Some perhaps may think, that after such wonderful Suc-
cesses Abroad, as we have had the last Year, after the *French*
King has lost *Lille*, and been forced to abandon *Ghent* and
Bruges ; to speak to your Lordships of any Dangers at Home,
or to have the least Apprehension from such a baffled Enemy,
were to expose the Weakness of a Man's own Judgment ;
but I shall endeavour to shew your Lordships how dangerous
a Mistake this is, from Example, Reason and Authority, the
three best Arguments I know to prove any Truth.

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My Lords,

“ Were not *Hochfleß* and *Ramellies* as glorious Victories, and as great Mortifications to the *French* King, as our taking of *Lille*, or reducing of *Ghent*? and yet after such entire Victories, such repeated Defeats, had not this haughty Neighbour of ours, the Presumption, the last Year, to attempt the setting a Pretender upon her Majesty’s Throne ? And can we reasonably promise ourselves any Security whenever he is in a Condition to give us the least Disturbance ? And is he not in a Condition ? Is he not as near us this Year as he was the last, notwithstanding all our Conquests ? That’s an Advantage our Allies only have by them, to have their Enemies at a greater distance. Has he not as many Ships, and as many Friends too, except one, as I mentioned to your Lordships ? Nay, my Lords, has he not as great Encouragement to renew his Attempt as he had to undertake it, as I shall presently shew your Lordships ; from whence then does our great Security arise ? Besides, my Lords, what is yet further, every Body is convinced by the inconsiderable Force, the small Number of Ships and Troops, the *French* King employed in the late Attempt upon us the last Year, that his chief Dependance was upon the Encouragement and Promises of Assistance he had from hence ; and yet, notwithstanding all our Enquiries, is it not as great a Mystery to this Day as it was, who the Persons amongst us are, who were concerned in this black and unnatural Treason ?

“ ‘Tis true, my Lords, several Persons of great Quality and Interest have been taken up upon Suspicion, brought from their own Homes and Country, whilst others thereby have had the Opportunity of supplanting them in their Interest there : ‘Tis not for me to say, whether this proceeded from Ill-will to some, or Favour to others ; but, has any thing been proved against them ? Does not the Bail that has been given for them, and their sitting in this House, convince every body of their Innocence ? So that this way of proceeding has rather proved vexatious to the Subject, than any real Security to the Government, and I hope will make us for the future set a greater Value upon our *Habeas Corpus* Act, which was the Right of every Subject before by Common Law.

“ Nor has the Characters that have been made of Persons to be suspected had any better effect. There are two I shall mention to your Lordships, and I think greater Mistakes than both of them can scarce be put into Words ; the first is, That Men of arbitrary Principles are the Persons who ought to be suspected ; this Argument has been very much laboured, and great Pains has been taken to persuade the World

from Men's Practices in former Reigns, that they are still Anno 7 Anne,
of arbitrary Principles, and from thence it is inferred they
ought to be suspected. I shall not trouble your Lordships,
or myself, at present, to shew the Weakness of this Argument;
I will take it as they that have use of it would have
it, for a strong and undeniable Consequence, and then I ask,
What, my Lords, is the Nation to suspect any, who are at the
Head of your Ministry, of giving this Encouragement to
your Enemies? For I will be bold to say in this Place, if this
be a good Argument, it is as strong against some who are at
the Head of your Ministry, as against any Man I know of
who is out of it.

There is another Character of suspicious Persons, which
I cannot but take notice of, because I take it to be very
fatal to the Freedom of Parliament, for it is impossible for
any Man to take notice, either in Parliament, or to the Queen
herself, of any wrong Measures, or false Steps in the Ma-
nagement of public Affairs, without so far reflecting on the
Ministry; and if this is to be interpreted as an artful Method
of lessening her Majesty's just Esteem of her Ministers; and
those who do so are to be marked as dangerous to the Safety
of her Majesty's Person, and the present Establishment, I am
afraid her Majesty, for the future, may have several Things
concealed from her, which might be for her Service to know,
and one of the great Ends and Uses of Parliaments, the re-
dressing of Grievances, and keeping great Men in Awe, will
be quickly laid aside. But, my Lords, we have a very visible
Instance, that this is a great Mistake; for do we not see those
Lords, who the last Year espoused the Case and Complaint of
the Merchants in Parliament, now advanced to the greatest
Places of Trust and Power? So that these two Methods have
rather shewed us, who ought not, than who are to be sus-
pected.

My Lords,

I shall now take Leave to say one Word to the positive
Part; and if we would apply an Observation of the Schools
to the Case in hand, I believe it would set this Matter in the
truest Light. They tell us there is great Difference to be
made between a Division and a Distinction: Every Division
is a Distinction, but every Distinction is not a Division; the
Soul and the Body are distinct, but they are not divided, for
that would be a State of Death; it is so in this Case, the Pa-
pist, Jacobite, and Nonjuror, are a Party of Men divided
from the rest of the Nation; they want that *forma infor-*
mass, as they call it, that vital Spirit of Love and Loy-
alty that animates every good Subject: But as for others,

Anno 7 Anne, 1708-9. however they may be distinguished, and differ among themselves in their Notions relating either to ecclesiastical or civil Policy, yet they seem all to have the same Regard and Concern for the Honour and Safety of her Majesty and Government. I would not be misunderstood, as if I did not think some of all Persuasions may be faulty: I know, that even among the Apostles themselves, he that bore the Bag proved the Traytor: My Meaning only is, that those who have taken the Test to the Government, may at least pretend to an equal Degree of your Charity with those who never yet owned it; and it is these Persons who never swore to the Government, that her Majesty directly points at in her last Speech to her last Parliament; for after she had been pleased to say, " It is certain we must be all inexcusable, if we do not take warning from this Attempt, to complete what may be necessary for our Security at Home, and the discouraging the like for the future; to which, by God's Blessing, there shall be nothing wanting on my Part." In the following Paragraph she is pleased to add, " I must recommend to you, at your Return into your several Counties, to use your utmost Care and Diligence in putting the Laws in Execution against Papists, and all others disaffected to my Government, and in making them pay towards the public Taxes to the full of what the Law requires from them: Nothing being more reasonable than that they, who by their Principles and Practices encourage (if not actually foment) such Disturbances, should doubly contribute to the Charge of quieting them, and securing the Kingdom's Peace, and should know themselves, on all such Occasions, to be responsible for the many Inconveniences that may ensue :" Which two Paragraphs, will, I hope, justify what I have taken Notice of to your Lordships.

My Lords,

" I do not forget the Obligation I am under to a noble Lord, and therefore shall now shew your Lordships, that notwithstanding the *French* King failed in his late Attempt upon us, yet he has more Encouragement to renew it, than he had at first to undertake it: And, my Lords, I think a great deal that I have said to your Lordships proves it. Is it not a great Encouragement to him, to see, notwithstanding so many Friends that he has amongst us, all the Methods that we have hitherto taken, have signified so little to discover any of them? And that those Methods have not been taken, that might perhaps have signified more towards a Discovery, and have been made use of at other Times; I mean Promises both of Pardon and Reward. Does he not see how easily he can shake the main Pillar that supports all our Commerce,

I mean

I mean the Bank? Was it not in danger of breaking? And Anno 7 Anno, has it recovered the Blow to this Day that he gave it? For, 1708-9. my Lords, if Men cannot be Masters of their own Money, which they trust with any body, upon no other Reason, but that they may command it again in any Case of Necessity, without being looked upon as suspected Persons, I believe Men will be so wise as to secure both their Money and themselves too, from any such Danger. There is another Encouragement, which he has, my Lords, and that is, the weak and defenceless Condition of Scotland, the Deficiency of Force, and ill State of your Garrisons there, at the Time of the Invasion, notwithstanding the certain Accounts and Knowledge we had of it. What, my Lords, will no Alarm awaken us? Will the Scales never fall off from our Eyes? Must some Men's mighty Services prevent our looking into others great Miscarriages? And must this poor Nation be eternally fawn asunder by the Struggles of contending Parties? My Lords, I hope it is not thought that I have been thus urgent with your Lordships from any Fears of personal Danger: I am content to take my Lot with others as it falls, whatever it be; but I am afraid lest her Majesty should be dethroned whilst she lives, and that the Destruction of Popery or Slavery, whilst we are speaking Peace to ourselves, should suddenly, like a Flood, break in upon us.

My Lords,

'If your Lordships have any Intention of looking into this Matter, I shall make your Lordships a Motion, which perhaps may give us some Light; it is indeed a complex One, and rather a Schedule of Papers; it is, that her Majesty will please to order, that there may be laid before this House, at what time her Majesty received the first Account of the intended Invasion: What Orders were thereupon issued into Scotland, with relation either to Forces or Garrisons? What was the Number of regular Troops and Forces there, at the Time of this Intelligence? What was the State of the Garrisons there at that Time? What Augmentation was made, or Forces sent thither, from the Time of the Intelligence, to the Time of the Invasion? What Orders have been given with relation to the Garrisons, and when, both before and since the Invasion, from the Time of the first Intelligence?'

Several other Peers spoke to the same Purpose; whereupon the House appointed a Committee, to enquire into the State of the Nation, in relation to the intended Invasion; and ordered an Address to be presented to her Majesty, to desire that the Papers, concerning this Affair, might be laid

A Committee appointed.

K k 2 before

Anno 7 Anne, before them : Which her Majesty was pleased to direct accordingly.
1708-9.

On the 25th of February, the Lord Haverham open'd, in the House of Lords, the Account of the Scotch Invasion, in the following Speech.

My Lords,

Lord Haverham opens the Account of the Scotch Invasion.

' The Temper of this House, with relation to your Enquiry into the intended Invasion, since your Address to her Majesty to have the Papers laid before you, and since they have been upon your Table, is so very visible, I need not take notice of it, but ought rather to ask Forgiveness for myself, that I should dare so much as mention that Matter once more to your Lordships ; nor should I do it, were it not from an absolute Necessity and Justice, which I think is due to myself, and those Lords who did me the Honour to second the Motion I made for addressing her Majesty for those Papers ; for to me it seems too much like Fear or Guilt, to sit down tamely under any Reflection a Man has in his Power to wipe off, and there are some which we, perhaps, hereafter may be reproached with : One is, that these Lords who made you this Motion, never so much as looked into the Papers they called for, or have thought on, or mentioned that Matter since ; perhaps they will say so too, that they never intended it should come to any thing ; that it was only a Cover to some Design they had under it ; nay, I do not know but they may go so far as to say, that, under hand, they were trying how an Act of Grace would relish : Should such a Thing be offered, I know myself so innocent, as, in our present Circumstances, I should not give my Consent to it, for I shall always think, that, when Horses are skittish, vicious, and headstrong, let who will be upon their Back, it is fit they should never be without a good strong Curb in their Mouths : And, as to these Papers, my Lords, I have looked into them, and those who have done so, cannot, in my Opinion, but think of them : But that your Lordships may not have my Word for this, I will, with your Lordship's Leave, take notice of some Particulars that are in them ; and that you may be certain of the Truth of what I observe, I beg your Clerk may read, for Vouchers, the Papers themselves, as they shall be called for.

' It will not, I presume, be denied me, that, upon the 23d of February, Mr. Boyle received certain Intelligence, that the intended Armament at Dunkirk was designed for Scotland, there had been several Advices before of great Preparation making, and, by the great Quantity of Fire-Arms, it was judged

judged to be for some Land Design. The States were apprehensive, and acquainted her Majesty, by their Minister, with it ; and *Scotland* had been, in several Intelligences, named, but I do not find there was a certain Account till that of the 23d of *February*, to Mr. *Boyle*. Anno 7 Anne, 1708-9.

‘ The Queen, in her Letter of the 25th of *February*, to the Council of *Scotland*, thinks it necessary to acquaint them with it ; and, that she does expect they shou'd do their utmost for the Protection of her Subjects, and Preservation of the Public Peace ; that nothing on her Part should be wanting ; that she had given Orders, that some of her Troops in *Flanders* should be ready to embark, in case the Embarkation at *Dunkirk* should go on ; and that her Troops in *England* and *Ireland* were so disposed as to give what Assistance might be necessary, and, in the mean time, authorizes and empowers them, the Privy-Council, to give such Orders as were proper to put her Forces, Forts and Garrisons there, in the best Order.

‘ This then being allowed, the first Question is, What Number of Forces, effective, regular Troops, I mean, were in *Scotland* at this Time, that is, the 23d or 25th of *February*, 1708 ? I cannot but observe to your Lordships, that there has been a great deal of Care taken to conceal this from us, altho' this very Account was particularly asked for by your Address ; yet, in all that great Bundle, there is not one Paper from whence we can learn the Number : I was therefore forced to get the best Light and Intelligence I could elsewhere ; and have very good Authority for what I am going to say, and do affirm to your Lordships, that the regular Forces in *Scotland*, upon the 25th of *February*, 1708, were not above 1500 Men. If I am mistaken, I hope some Lord here will set me right, and take upon him to say what the real Number was at that Time.

‘ And, since there were but 1500 Men, it is certain that was not a Number or Strength, that could be thought by any Man sufficient to secure and protect the Kingdom against the Invasion that threatened it ; and the Ferment that was then in the Nation was such, that I do not find they durst so much as trust their Militia with their own Defence. We are therefore, in the next place, to consider what additional Strength or Argumentation this Handful of Men had, or what Assistance, either from the Forces from *Orford*, or those from *Ireland*, or *English* Troops from hence.

‘ As to Augmentations or Additions, I find there was little or nothing done as to that Part : The Parliament indeed had, on the 20th of *December*, 1707, raised the Establishment of the Forces in *Scotland* from 2834 to 5932 ; but, it appears

Anno 7 Anne, appears by a Letter from the Earl of *Leven* to the Earl of *Marr*, of the 7th of *March*, that little Notice had as yet been taken of what the Parliament had done; for, in that Letter to the Earl of *Marr*, he intreats him again to mind the Establishment, and let him know if he shall give Encouragement to any who should be willing to take Arms to join them; and says further, he hopes, at least, that so much of the Levy-Money as is due since the 24th of *December*, will be given now; for that would buy some Horses, and levy some Men: So that by this Letter it appears there was no Money given to levy Men, or increase the Forces in *Scotland*, tho' there were 3600 Men wanting at that Time, and had been so ever since the Parliament had voted the Establishment in *December*, and, tho' our Danger, at that Time, from the Want of them was so very great and evident; which seems very astonishing. Nor does it appear that any Directions, or Money for this or any other Service, till the Invasion was over, was ordered here till the 12th of *March*; and then, indeed, on the 13th, the Earl of *Marr* writes from hence to the Earl of *Leven*, That my Lord Treasurer had ordered the People of the Customs and Excise, to answer the Earl of *Leven* with Money for Provisions, and other necessary Charges; and further says, That my Lord *Marlborough* told him that very Morning, which was the 13th, that the Scotch Establishment would be ended that Day; he knows not how they have made it, or if they have altered any thing that we had concerted with *St. John*, or if any thing be omitted; but we hope they have not.

It is very true, her Majesty, in her second Letter of the 8th of *March* to the Council of *Scotland*, recommends to them, to give present Directions to put her Forts, Garrisons, and Magazines there, in a good Posture of Defence, and says, That what shall be expended towards those Ends by their Warrants shall be repaid, for which she has already given Orders: What those Orders were, or to whom given, are not to be found among the Papers; but it is very evident, that there was no Order for one Farthing of Money, to answer either the Orders of the Council, or the Earl of *Leven*'s necessary Charges, out of any Branch of the Revenue, or otherwise; for in a Letter of the Earl of *Leven* to the Earl of *Marr*, of the 13th of *March*, he has these Words, which will likewise shew the Condition of the Nation at that Time: ' My Lord, says he, I leave it to your Lordship to consider my Circumstances, here I am, not one Farthing of Money to provide Provision, or for Contingencies, or Intelligence, none of the Commissions yet sent down, few Troops, and those almost naked; it vexes me sadly to think I must retire

retire towards *Berwick*, if the *French* land on this side the *Forth*.' And that you may not have his Lordship's single Word for it, the Lord Advocate confirms very much the Truth of this, in his Letter of the 11th of *March* to the Earl of *Marr*; for after he had said that, he was ordered to lay before her Majesty the inclosed Information for the Castle of *Edinburgh*, and a particular Account of what it wants to put it in a Case of Defence; and also the Castles of *Sterling*, *Dumbarton*, and *Blackness*, to shew their present Condition, and Want they are in, and that he had formerly sent a Memorial of Mr. *Slezzer's* for a Train of Artillery; all which he hopes will be considered.' He adds, 'I believe (says he) there was never a Country more destitute and defenceless than we are, nor have we so much as a Treasury, or any Money for incident Changes; so that I must again, by the Council's Order, lay these Things before your Lordship, and that at least some Order may be given, whereby necessary Expences may be defrayed. And the Earl of *Marr's* Letter of the 13th from hence, is the first Account we have of any Money that was ordered for *Scotland*: By all which it plainly appears, that, notwithstanding the Orders the Queen mentions in her Letter of the 8th of *March*, the Council had not a Shilling for necessary Expences on the 11th, nay, not so much as one Penny ordered till the 13th; and as to the Establishment, notwithstanding all the pressing Instances, that was not settled till after the Invasion, as appears by the Earl of *Marr's* Letters of the 12th and 13th of *March*.

' This, my Lord, is the true State, as appears from the Papers themselves given in, relating to the Force of that, I had almost said deserted, but I may say defenceless Nation; few Men, and those almost naked, 3600 Men wanting of the Establishment voted by Parliament for the Year 1707-8, near three Months before; no Levy-Money, no Establishment settled, no Commissions sent down, not a Shilling ordered by the Ministry out of any Branch of the Revenue, or otherwise, to the Privy-Council or Earl of *Leven* for necessary Expences, or to buy Provision, or for Contingences or Intelligence, and all this in a Time of the utmost Danger.

' In the next place I shall shew your Lordships, when *Scotland* was in this defenceless Condition, what Assistance they had from *Oftend*, *England* and *Ireland*. As to the Transports that were to come from *Oftend*, tho' all the Dispatch was made that could be made, they did not arrive at *Tynmouth Bar*, till ten Days after the Enemy were seen upon the *Scotch* Coast, so that the Dispute, if there had been any, would have been over, and the Enemy in all human probability, would have been Masters both of *Edinburgh*, the Castle,

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Castle, and all that was in it, before they could come up to their Assistance. And the very Order to (Rear-Admiral) Baker is so extraordinary, a Man cannot but take notice of it, for after that he is required and directed to make the best of his Way to *Tynemouth*-*Bar*, with her Majesty's Ships under his Command, and the Transport-Ships with Troops which he brought with him from *Orford*, &c. There is a further Order in these Words, but in regard there are several dismounted Troopers on board the Transports, you are to send a Vessel with them to *Harwich*, if you can conveniently, their Horses being now in *Essex*; so that instead of taking the Horses to *Tynemouth*, the dismounted Troopers are first to be sent to *Harwich* to their Horses, and from thence to proceed to *Scotland*; which, one would think, were a very round-about Way.

And as to our Troops from hence which were to assist them, the several Regiments of Horse, Dragoons and Foot, had not their Orders to hold themselves in a Readiness to march till the 11th of *March*. The next Day Orders were given for them to augment, and on the 14th they were ordered to march northward, which was certainly too long a Delay, considering what a March it is from hence to *Edinburgh*; yet this was all the Readiness they were in to assist them.

But there is one Thing which is most amazing, and I must again desire, if I am wrong in fact, that some Lord here, who I am sure can, will set me right.

The Queen, as I shewed to your Lordships in her Letter of the 8th of *March*, which your Clerk just now read, told the Council of *Scotland*, our Troops from *Ireland*, which we mentioned in our last, are ready to embark in Transport-Ships provided in those Places with all Necessaries for that Service: And yet it does appear plainly, that there were no Transports provided at that Time here; nor were any Transport-Ships ordered in *Ireland*; nay, the very Orders to provide Transports were not given by my Lord *Sunderland* till the 12th of *March* here; nor by my Lord Lieutenant of *Ireland*, for the Troops to be in a Readiness to be transported till the 13th, and then my Lord *Sunderland* sends an Order to the Commissioners of Transports, telling them, That it is her Majesty's Pleasure that they forthwith take up Shipping for the Transportation of six hundred Horse, that are to embark at the *White-House* between *Garrickferus* and *Belfast*: And it is left, says he, to your Discretion to hire these Ships either at *Whitehaven*, *Liverpool*, or *Chester*, as you can do it with most Expedition and Convenience. And upon the 13th, his Lordship sends another Letter, acquainting

quainting them, that they are to provide aboard those Ships, Anno 7 Anne, Hay and Oats, sufficient to serve six hundred Horse for a 1708-9. Fortnight, and as many Water Casks as may be necessary to carry Water; Particulars that were it seems forgot in the first Orders: And in an Extract of the Earl of *Pembroke's* Letter to the Lords Justices of *Ireland*, of the 13th, he tells them, "I did not in the least doubt but that your Lordships will issue proper Orders for one Regiment of Horse, and two of Dragoons, to embark whenever there shall be Occasion for them: And it is her Majesty's Opinion, that the Regiment under the Command of Lieutenant-General *Langston*, Major-General *Ecklyn*, and Lord *Tunbridge*, should be on this Service; and I am of Opinion that it will be for the Service of the Queen, to have these three Regiments move with all convenient Speed, and take their Quarters in and about *Belfast* and *Carrickfergus*, that they may be in a Readiness to embark; I desire your Lordships to give Directions to the proper Officers to provide and get ready Hay, Oats and Water, for at least a Fortnight."

And here, if we consider that these Letters were dated the 12th and 13th of *March* from hence, that they were to go to the Commissioners of Transports here, and to the Lords Justices in *Ireland*, that after these Transports were to be agreed for, and Hay, Oats and Water to be provided, and the three Regiments ordered to march, what Time this would take up, it seems very evident, that her Majesty was not truly acquainted with the Danger she was in; that she thought these Things were in a Readiness which were not; and that the Orders she had given had not been observed, as she concluded they were; and, in the last place, that these three Regiments must arrive in *Scotland* very late.

But there is one thing more so very new, and without Precedent, that it cannot but be very astonishing; which is that in the Earl of *Leven's* Instructions of the 4th of *March*, in that Part where he is ordered to *Ireland* for Assistance, there is a Blank left as to the Person to whom he is to write; the Words are these, ' You are, upon the first Appearance of any Squadron of *French* Ships upon the Coast, to send to *Ireland* to to advertise him thereof, who has Orders to send Troops to your Assistance;' and yet, as was just now proved, both from my Lord *Sunderland's* Letter to the Commissioners of Transports, and from my Lord Lieutenant's to the Lords Justices, there were not so much as Orders given for any Transports here till the 12th, nor any ever in *Ireland*, nor were the three Regiments directed to move, in order to embarking, till the 13th.

I confess, when I read this, I thought it was a Mistake
1708-9. L 1 of

Anna 7 Anne, of the Transcriber, till I saw these Words in the Earl of Leven's own Letter, of the 7th of March, to the Earl of Marr, ' I desire you, says the Earl of Leven, to send down the Name of the Person I am to write to in *Ireland*, if there be Occasion; and must still entreat your Lordship that Orders be sent for some Horse and Dragoons to embark.' And again, in his Letter of the 13th, where he has these Words to the Earl of Marr, he repeats the same thing; ' Pray endeavour to get Orders sent straight to *Ireland* for the Officers there to embark, for you know I have no Person's Name to whom I should write.' This convinces me beyond what any Man can say, that his Lordship did not know to whom to write, for sure his Lordship would not repeatedly affirm what was not Fact; and whoever considers that there were no Orders lodged any where for any Person from *Ireland*, upon Advice from the Earl of Leven of the Appearance of the Enemy, to follow his Direction, and hasten to his Assistance; nor any Orders at all for Transports there; nor any Direction here for Transports till the 12th, must, I think, be convinced that this Blank in the Instructions did not happen by Chance, but was a premeditated and designed Omission.

' I would not forget any Care that was taken, and therefore must take Notice, that on the 27th of *February* there were an hundred Barrels of Powder ordered to be sent from *Berwick* to *Edinburgh*; but the Earl of Leven was not written to about it till the 2d of *March*, which was four Days delay. And the Order itself was so very preposterous, I had almost said ridiculous, (much like that of *Baker's*) that it had full as well been omitted; for, instead of ordering the Store keeper of *Berwick* immediately to carry a hundred Barrels of Powder to *Edinburgh*, they send an Order to one Mr. *James Robb*, Deputy Store keeper of *Edinburgh*, to get Carts and go with them to *Berwick*, and take three hundred Barrels of Powder and bring it to *Edinburgh*. And Mr. *Grieue*, Store keeper of *Berwick* to the Board of the Ordnance, writes a Letter, dated Mar. b the 10th, 1707-8, hither, that *Robb* was come to *Berwick*, and the Carts would be there that Night. And I appeal to a Lord, who cannot but know, whether the Powder came to *Edinburgh* before the Danger was past, and the French off our Coast? And whoever will reflect, that the Earl of Leven's Letter, dated here the 2d of *March*, was to go to *Edinburgh*; that then at *Edinburgh* Carriages are to be taken up for the Powder, then they are to go to *Berwick*, and from *Berwick* they are to return again to *Edinburgh*, will find it could hardly be there sooner.

' The next Thing I shall take notice of to your Lordships, is the State of the Garrisons. The Parliament had given,

the 20th of December, the Sum of 13098*l.* 17*s.* 2*d.* for Ammunition
 the Garrisons of North Britain for the Year 1708. But I ^{1708-9.}
 cannot but think your Lordships will be greatly surprized,
 when you find in what a wretched Condition they were. I
 will give your Lordships but an Instance or two, the rest
 are much in the same State.

Sterling-Castle.

' This is a very considerable Post, a Place of great Importance; and yet what an Account is there of the Arms and Ammunition in that Place ?

One Barrel of Powder.

550 Firelocks, of which, about a Hundred for Service, and some of that Hundred want Ram-Rods, and some Nails, all the rest unserviceable.

780 Muskets, which may be for Service, when furnished with Ram-Rods; some Nails, and some shattered in the Stocks.

380 Muskets, with broken Stocks and Locks, and many wanting Locks, and all unserviceable.

150 Bundles of Match, all damnified with lying in Rain.

300 Bayonets, with most of them broken and spoiled, altogether unserviceable.

300 Cartridge Boxes, all broken and unserviceable.

200 Pikes, damnified by long lying.

40 Cannon-Balls, 18 Pounders.

70 Cannon-Balls, 12 Pounders.

1200 Balls, 9 Pounders.

3400 Four Pounders.

20 Small Bomb-shells without Mortars.

1200 Hand Grenado Shells.

50 Stands, back and breast.

Ordnance Stores in *Blackness-Castle.*

' Two Barrels of Corn-Powder, one Hundred each.

A Hundred Yards of Match.

4 Hand-Spikes.

59 Musket Barrels, repairable.

7 Scimitar Blades useleſs.

1000 Pound Musket Bullets.

3 Ladles, one serviceable, the others useleſs.

2 Cannon, 3 Pounders.

1 Train Carriage, unserviceable.

2 Minions.

3 Faulcons on Ship-Carriages, unserviceable.

77 Balls for Minion.

25 Balls for 3 Pounders.

149 Hand Grenado-Shells.

Anno 7 Anne,
1708-9.

Dumbarton-Castle.

“ There are several Breaches in the Wall; there are twelve Brass-Guns, none of them mounted, all of them want Carriages: There is no Powder in the Garrison, and but few Eliots; all the Lodgings in a ruinous Condition; no Coals in the Garrison, nor any other Provision: The Firelocks being long since they were gotten, are very ill fixed.

Edinburgh, March 9, 1707-8.

“ The abovementioned is the true Condition of the Castle of Dumbarton at present.

“ I need not, my Lords, I think, make any Observations upon the Castles, after your Lordships have seen the wretched State of them; and therefore, in the last place, shall only take notice to your Lordship, that, after the Invasion was over, there were Estimates made, what it would cost to put the Fortifications of *Scotland* in good Repair. The total, as appears by your Schedule, amounts to 23156*l.* of which there could be but 3000*l.* laid out this Year; and yet there has been but poor 1500*l.* expended upon that Service this Year, as appears by your Paper.

“ I will not trouble you farther, I think this Matter is now very plain before your Lordships; I could wish I had not said one Word of Truth in what I have said to you; but the Vouchers shew it to be so, and if all this be true, it is a very strange, a very surprizing, and a very astonishing Truth.

“ I shall not move any thing to your Lordships farther in this Matter, I believe there has been enough now said, to justify those Lords for moving this Enquiry, and shall add but this Word, that if there be no greater Care taken for the future, than there was at this time of such imminent Danger, it will be the greatest Miracle in the World, if, without a Miracle, the Pretender be not placed upon that Throne.”

This is the Substance of what was observed by the Lord *Haverham*, tho' there happened some Interlocutories between him and another Lord: And the Observations are made upon the Papers as they were read: The Duke of *Buckingham* and several others spoke to the same Effect: Upon which it was ordered, that that important Affair should be considered the *Tuesday* following in a full House. But all ended in a joint Address of both Houses, that much and effectual Care had been taken by those employed by her Majesty, at the Time of the intended Invasion, to disappoint her Majesty's Enemies both at Home and Abroad.

The Talk of a Treaty being about this Time become general, the Lord *Somers* moved in the House of Peers, that

Duke of Buckingham.

A joint Address of both Houses.

Lord Somers's Motion for obliging the

French King to acknowledge the Queen's Title.

an Address be presented to her Majesty, that she would be *Anno 3 Anne,*
pleased to take Care, at the Conclusion of the War, that the *1709.*
French King might be obliged to own her Majesty's Title,
and the Protestant Succession, and that the Pretender might
be removed out of the French Dominions, which was una-
nimously approved. Then the Lord Chancellor, by Order Thanks given
of the House, returned their Thanks to his Grace the Duke to the Duke of
of Marlborough, for his eminent Services performed the last Marlborough.
Campaign.

The Committee appointed by the Lords to draw up the The Motion for
Address, moved by Lord Somers, having prepared it, and their the Demolition
Lordships having approved it, it was sent down to the Com- of Dunkirk.
mons, where Mr. Secretary Boyle represented, ' That the Bri-
' tish Nation having been at a vast Expence of Blood and Tre-
' a-
' sure for the Prosecution of this necessary War, it was but just
' they should reap some Benefit by the Peace; and the Town
' of Dunkirk being a Nest of Pirates that infested the Ocean,
' and did infinite Mischief to Trade, he therefore moved that
' the demolishing the Harbour and Fortifications of that Town
' be insisted upon in the Address : ' Which being accordingly
inserted, Mr. Secretary Boyle carried it back to the Lords.
And the next Day, March the 3d, the Lord Chancellor, on
the Part of the Peers, and the Speaker of the House of Com- Presented in an
mons, on the Part of the Commons, presented the said Ad- Address to the
dress to the Queen, who answer'd, " I am of the same Op- Queen.
" nion with my two Houses of Parliament, in the several Answer.
" Particulars of this Address, as I have also been in all the
" other which they have made on the same Subject; and I
" assure you, no Care shall be wanting on my Part, to attain
" the Ends you have desired."

March the 15th, *Hodie 2^a vice lecta est Billa*, entitled, An Bill for Natural-
Act for naturalizing foreign Protestants. lization.

After Debate, the Question was put, Whether this Bill
shall be committed?

It was resolved in the Affirmative.

Dissentient'

Because we humbly conceive, that this Bill of general Protest thereon.
Naturalization will be very prejudicial to the Trade and
Manufactures of this Nation, and may be of ill Consequence
to our Liberties and Religion.

*Buckingham, Guernsey, Scarsdale, Thanet, North and Grey,
Anglesea, Guilford, Nottingham.*

The 28th, *Hodie 3^a vice lecta est Billa*, entitled, an Act Rider to the Bill
for improving the Union of the two Kingdoms. for improving
A Rider was offered to be added to the Bill; which was the Union re-
read, as follows: jected.

(Provided

ANNO 8 ANNE, (Provided always, and be it enacted, by the Authority
1709. aforesaid, that no Person shall be tried for High-Treason,
or Misprision of High-Treason, unless a Copy of his In-
dictment, together with all the Witnesses Names endorsed
upon it, as it shall come from the Grand Jury, shall be de-
livered to the Prisoner, five Days, at the least, before the
Trial of the said Prisoner.)

Then the Question was put, Whether this Rider shall be
read a second time ?

It was resolved in the Negative.

Protest thereon.

Dissentient'

We conceive it not for the Safety of the Subject, that the
Names of those Witnesses, which shall appear endorsed on
the Indictment, when it comes from the Grand Jury, shall
be concealed from the Prisoner, who, by receiving Notice
of such Witnesses, five Days before his Trial, may be en-
abled to discredit them, if he be innocent, and yet not en-
abled to escape, in case he be guilty.

*Buckingham, Peterborough, Dover, Guilford, Greenwich,
Scarsdale, Loudoun, Seafield, Annandale, Crawford,
Roseberie, Scarborough, Hamilton, Rothes, Warrington,
Isla, Denbigh, Marr, Poulett, Gt. Sarum, Montrase,
Roxburgh, Wemyss, Orkney.*

Then the Question was put, Whether this Bill shall pass ?

The Bill pass'd.

It was resolved in the Affirmative.

Dissentient'

Protest thereon.

We humbly beg Leave to protest against the Title, Pre-
amble, and Body of this Bill, for the Reasons following :

1st, We conceive the general Title of this Bill very im-
proper, because it does not express the particular Purposes
of it, which are altering the Laws of the northern Part of
Britain, and the Method of Trials in Matters relating to
Treason ; and because we apprehend, this Act will be so far
from answering its Title, of improving the Union, that we
are humbly of Opinion, and sincerely persuaded, it may have
a quite contrary Effect.

2^{dly}, The Preamble of this Bill may happen to give un-
necessary Grounds of Suspicion, to mistaken People, that
there is a Tendency towards a total Alteration of the Laws
of Scotland, which cannot but create great Uneasiness to that
People, who rested in a Confidence, that their private Laws
were secured to them by the Articles of the Union, so as not
to be altered without the evident Utility of the People of
Scotland.

3^{dly}, It does not appear to be necessary, that new Courts
and Jurisdictions should be created in a Country where the
Courts

Courts of Justiciary were to be preserved in the Exercise of *Anno 8 Anne*, their Authority by the Articles of the Union, tho' it might *1709.* be thought reasonable, that the same Facts and Offences might be esteemed Treason and Misprision of Treason, and that the Punishments might be likewise the same ; and we do humbly conceive, that the Commissions of *Oyer and Terminer* may be construed an impairing of the Authority of the Courts of Justiciary in *Scotland*, and the entire Alteration of the Methods of Trials may render it very difficult to prosecute any Person for the Crimes of Treason, and very insecure for the People, who are to make their Defence in unknown Methods.

4thly, The general Description of Treason in this *Act*, without specifying either the particular Facts that shall be accounted treasonable, or the particular Laws to be established in both Kingdoms, is a just Exception against the Bill ; for it would have been a great Satisfaction to the People of *North Britain*, if these Laws had been reviewed in a Parliament where their Representatives might have had Time to have examined the Reasonableness of them, and had a Share in the passing them ; but the enacting all the Laws of *England*, without entering into any Detail or Consideration of them, may create great Uneasiness.

5thly, The present Laws of *Scotland*, in relation to the Forfeitures, ought to have been considered as established upon most solid Foundations ; they were settled upon the Tender of the Crown to King *William*, and accordingly passed into Laws at that Time, which the Subjects might well conclude they should never be deprived of : But the Proviso in this *Act* relating to Marriage-Settlements is only a Remedy in part, and but a Share of the just Provisions made on behalf of the Subjects in that remarkable and happy Revolution, which so much improved the Constitution of both Kingdoms.

Lastly, We conceive, that whereas the Qualification for a Jury-Man to be sworn upon the Pannel is by this *Act* affixed to the Possession of forty Shillings *per Ann.* it ought to have been kept up to what the Law of *England* now ordains in Trial, which is, that the Jury-Man be seized of ten Pounds *per Ann.* in his own Right, or that of his Wife's.

*Buckingham, Annandale, Roseberie, Seafield, Crawford,
Dover, Montrose, Guisford, Dumbigb, Loudoun, Orkney,
Roxburgh, Greenwich, Roxburgh, Gt. Sarum, Marr, Pe-
terborough, Wemyss, Isla, Hamilton.*

An Abstract of this remarkable Bill is as follows :

It is hereby enacted, that after the 1st of July, 1709. Abstract of the such Crimes and Offences as are High Treason, or Misprision said Bill.
of

Ann 8 Anne, of High Treason in *England*, shall be adjudged, and taken to be High Treason, and Misprision of High Treason in *Scotland*, and no other: And that the Queen, her Heirs and Successors, may issue out Commissions of Oyer and Terminer under the Great Seal of *Great Britain*, to such Persons as she or they shall think fit, so that three of the Lords of Justiciary be in the said Commission, *Quorum*, to enquire, hear, and determine such High Treason, and Misprision of High Treason, in such manner as is used in *England*.

1709.
Provided, that where any such Commission of Oyer and Terminer is to be executed within a District where there is a Justice-General, or Person having Right of Justiciary, who had Jurisdiction in Cases of High Treason, or Misprision of Treason, at the making this Act, such Right being made appear to the Lords of Session, and certified by them to the Lord Chancellor of *Great Britain*, such Justice-General, &c. or his Deputy, shall be in the said Commission, and one of the *Quorum*.

And the Justice Court, and other Courts, having Power to judge of the said Offences in *Scotland*, shall enquire by the Oaths of twelve Men of the County, Shire, or Stewarty, where such Courts sit, of all High Treasons, and Misprisions of High Treason there committed, and proceed to hear and determine the said Offences, whereof any Person shall be indicted before them, in such manner as the Court of *Queen's Bench*, or Justices of Oyer and Terminer in *England* may do: And if any Person be indicted of the said Offences, before Justices of Oyer and Terminer, or in the Circuit Courts or other Courts, having Power to judge thereof in *Scotland*, then, upon the Request of the Queen's Advocate to the Lord-Chancellor or Keeper of *Great Britain*, he shall award a Writ of *Certiorari*, directed to the Justices of Oyer and Terminer, &c. to certify such Indictment into the Circuit Court, which Court shall proceed upon, hear, and determine the same as the Court of *King's Bench* of *England* may do upon Indictments removed or certified into the said Court: And Persons convicted or attainted of High Treason, or Misprision of High Treason in *Scotland*, shall be subject to the same Corruption of Blood, Pains, Penalties, and Forfeitures, as Persons convicted or attainted thereof in *England*.

Provided, that where any Person shall before the 1st of *July* be seized of an Estate Tail in Lands, &c. and is or shall be married before the said 1st of *July*, and shall have Issue living of the Marriage, or any Possibility of such Issue, at the Time of the High Treason committed, then such Lands, &c. shall not be forfeited upon the Attainder of such Person

Person for High Treason, (but during the Life of the Per. Anno 8 Anne, son attainted only) and the Issue and Heirs in Tail of such Marriage, shall inherit the same, the said Attainder notwithstanding.

1709.

And further, all Treasons and Misprisions of Treasons, which after the said 1st of July shall be committed by a Native of Scotland, at Sea, or in any Place of the Realm of Great-Britain, shall be tried before the said Justice-Court, or before such Commissions of Oyer and Terminer, and in such Shire, Stewarty, or County of Great-Britain, as shall be assigned by the Queen's Commission, and by good and lawful Men of the same Shire, as if the Fact had been committed there, and from, and after the said 1st of July, 1709, no Person accused of any Capital Offence, in Scotland, shall suffer, or be liable to any Torture, provided, that this shall not take away any Judgment that is given in England, against such as stand mute and refuse to plead.

Provided that every Jury-man, returned at such Trials, shall be seized, in his own Right, or in the Right of his Wife, of Lands of Inheritance, or for his, or her Life, or the Life of some other Person, within the County, Stewarty, or Place where the Trial shall be, or from whence the Jury is to come, of the Yearly Value of 40s. at least: And for want thereof, or for any other lawful Cause, a Jury-man may be challenged, and set aside.

And it is further enacted, that Theft in landed Men, Murder under Trust, wilful Fire-raising, firing Coal-Pits, and Assassination, which were Treason in Scotland, shall after the said 1st of July, be only adjudged, and deemed to be Capital Offences, and the Offenders shall only be liable to such Pains and Punishments, as by the Laws of Scotland are inflicted on the Committers of Capital Offences, and they shall be tried in the same manner, as by the Laws of Scotland is provided in other Capital Cases.

Whoever shall slay any of the Lords of Session, a Lord of Justiciary sitting in Judgment, in the Exercise of their Office within Scotland, shall be adjudged guilty of High Treason.

And whoever shall counterfeit her Majesty's Seals, appointed by the fourth Article of the Union, to be kept and used in Scotland, shall be adjudged guilty of High Treason.

Provided that, after the Death of the Pretender, and at the end of three Years after the Hanover Succession shall take place, (on the Demise of her Majesty) no Attainder for Treason to the disinheriting of any Heir, or to the Prejudice of the Right or Title of any Persons, other than the Right or Title of the Offenders, during their natural Lives only; and every Person to whom the Right of any Lands, after

Anno 8 Anne, the Death of such Offender, might have appertained if no such Attainder had been, may enter into the same.

1709.

And after the Death of the Pretender, and three Years after the *Hanover* Succession shall take place as aforesaid, when any Person is indicted for High Treason, or Misprision of Treason: A List of the Witnesses that shall be produced on the Trial, and of the Jury, with the Names, Profession, and Place of Abode of the said Witnesses, and Jurors, shall be given, at the same Time that the Copy of the Indictment is delivered to the Prisoner, which shall be delivered to the Prisoner ten Days before the Trial, in the Presence of two credible Witnesses.

At the same time that this Bill received the Royal Assent, *viz.* April the 21st, the Lords Commissioners put an End to the Parliament with a Speech, which is to be found in *CHANDLER's History, Anno 8 Anne, 1709, Page 134.*

Affairs Abroad. Conferences, at the *Hague*, having been opened for a general Peace, the Duke of *Marlborough* and Lord *Townend* had been appointed joint Plenipotentiaries in behalf of *Great Britain*; and Preliminaries, to the last Degree mortifying on the Side of *France*, (such as the restoring the whole *Spanish Monarchy* to King *Charles* within two Months, as likewise the *Netherlands*, except *Cambray* and *St. Omer's*, several Places to the Empire, *Savoy* to the Duke, and *Newfoundland* to *England*, the demolishing of *Dunkirk*, the removing the Pretender; no Suspension of Arms till the Article relating to the *Spanish Monarchy* was fulfilled, &c. &c.) were agreed upon, but not ratified, upon which it was resolved to break off the Treaty, and proceed with the War. Accordingly the Campaign was opened on all Sides, and once more the *Fate of Europe* was left to the Decision of the Sword.

But little was done on the *Rhine*, as usual; the *Portuguese* ventured on an Engagement and were beaten. The Duke of *Savoy* gave the *French* no Disturbance in *Dauphiny*, because the Emperor refus'd to come up to the Price he had set upon his Services: And in *Spain*, when King *Philip* would have engaged Count *Staremberg*, the *French* General, *Besons*, produced his Master's Orders to avoid a Battle.

Thus the grand Issue was left to be determined in *Flanders*, and the principal Strength of both Parties was stationed to dispute the Point accordingly.

While the *French* were expecting the Confederates to open the Campaign with the Siege of *Ypres*, they suddenly invested *Tournay*; and in the beginning of *September*, made themselves Masters of it. After which they undertook *Mons*; but were prevented from making any Progress in their Design, by the Arrival of the Marshals *Villars* and *Boufflers*; who

who posseſſ'd themselves of a Wood, and covered their Camp with Lines almost impenetrable, before a Resolution was taken to dislodge them. Mons was, however, thought worthy ſo desperate an Attempt ; and, to the Amazement of all military Critics, it was crown'd with Succes. The Enemy, however, retired to *Valenciennes*, and Mons ſurrender'd in October ; with which Exploit ended the Compaign.

Anno 8 Anne,
1709-10.

At Sea nothing was done, or thought of, tho' the French had left it free and open to whatever Enterprizes we pleased to undertake.



The SECOND SESSION of the Second Parliament of GREAT BRITAIN

WAS opened, November the 15th, with a Speech to both Houses, by her Majesty in Person, which ſee in CHANDLER's *History*, Anno 8 Anne, 1709, Page 135.

November the 17th, The Lords attended her Majesty with an Address, wherein they ſaid, ' They could not conceal the Lords Address Joy and Satisfaction which filled their Hearts, in ſeeing her of Thanks. ' Majesty fitting on her Throne again, after that great Misfortune which had deprived them of her Presence during the laſt Session : Nor could they forbear returning her Majesty their Thanks for her Speech ; whereby it appeared, how readily her Tenderness for her People inclin'd her Majesty to hearken to Propofals of Peace ; how wisely and steadily ſhe proceeded in the first Steps of the Treaty, and how justly ſhe reſented the Artifices and Infincerity of the Enemy. ' They congratulated the continued Success of her Majesty's Arms, under the Duke of Marlborough, whose Conduct, they ſaid, was worthy of the chief Command in ſo just a War, and whose Valour was equal to the Bravery of her Troops : And they assured her they would, to the utmoſt of their Power, ſupport her Majesty to carry on the War, and improve the Advantages ſhe had gain'd ; till France was compell'd to ſubmit to the Terms of a ſafe and laſting Peace for them and all their Allies.'

As the Affair of Dr. Sacheverell engroſſ'd the Attention of Dr. Sacheverell's Case. the whole Kingdom during this Session, and left the Nation in a Ferment for a long while, ſo ſcarce any one particular Transaction beſides of either House in that Interval hath been held worthy of the Notice of Posterity.

December the 13th, This * Affair was first broach'd in the House of Commons, and, January the 13th, the

M m 2

Doctor

* See CHANDLER's *History*, Anno 8 Anne, 1709, Page 137.

Anno 8 Anne, Doctor was impeached in the House of Lords on the following Articles :
1709-10.

Articles exhibited against him.

Art. I. That the said *Henry Sacheverell*, in the said Sermon preached at St. Paul's, did suggest and maintain, That the necessary Means used to bring about the Revolution were odious and unjustifiable : That his late Majesty, in his Declaration, disclaimed the least Imputation of Resistance ; and that to impute Resistance to the Revolution, was to cast black and odious Colours upon his late Majesty, and the said Revolution.

Art. II. That in his Sermon preached at St. Paul's, he did suggest and maintain, That the Toleration was unreasonable, and the Allowance of it was unwarantable : And asserted, That he is a false Brother, with relation to God, Religion, or the Church, who defends Toleration and Liberty of Conscience : That Queen *Elizabeth* was deluded by *Archbishop Grindal* (whom he calls a false Son of the Church, and a perfidious Prelate) to the Toleration of the *Genevian Discipline* ; and that it was the Duty of superior Pastors, to thunder out their ecclesiastical Anathemas against Persons entitled to the Benefit of the said Toleration, and insolently dares and defies any Power on Earth to reverse such Sentence.

Art. III. That in his said Sermon at St. Paul's he did falsely and seditiously suggest and assert, That the Church of *England* was in a Condition of great Peril and Adversity, under her Majesty's Administration : And, in order to arraign and blacken the Resolution of both Houses, approved by her Majesty, he did, in Opposition thereto, suggest the Church to be in Danger, and, as a Parallel, mentions a Vote That the Person of King *Charles I.* was voted to be out of Danger, at the same Time that his Murderers were conspiring his Death ; thereby wickedly and maliciously insinuating, That the Members of both Houses, who passed the said Vote, were then conspiring the Ruin of the Church.

Art. IV. That in his said Sermons and Books, he did falsely and maliciously suggest, That her Majesty's Administration, both in Ecclesiastical and Civil Affairs, tended to the Destruction of the Constitution : And that there are Men of Characters and Stations in Church and State who are false Brethren ; and do, themselves, weaken, undermine, and betray, and do encourage, and put it in the Power of others, who are profess'd Enemies, to overturn and destroy the Constitution : And charges her Majesty and those in Authority under her, both in Church and State, with a general male Administration : And, as a public Incendiary, he persuades her Majesty's Subjects to keep up a Distinction of Factions and Parties ;

ties; instils groundless Jealousies, foments destructive Divisions among them, and excites and stirs them up to Arms and Violence : And that his malicious and seditious Suggestions may make the stronger Impressions, he did wickedly wrest and prevent several Passages of Holy Scripture.

The next Day the Doctor was admitted to Bail, by the Lords, a Favour which the Commons had refused.

February the 27th, He had the Honour of a solemn Trial (her Majesty being present) in *Westminster-Hall*, which running into much greater Length than such a trifling Case deserved, and being likewise extant entire, we shall content ourselves with that Portion of it which concerns the House of Lords only.

March the 14th, Report was made from the Committee Resolution that appointed to inspect into Precedents of Impeachments concerning High Crimes and Misdemeanors, and some of the Words supposed to be criminal are not necessary to be expressed in Impeachments, Precedents being read at large, after Debate, the Question was put, that by the Law and Usage of Parliament in Prosecutions, by Impeachments for High Crimes and Misdemeanors by Writing or Speaking, the particular Words supposed to be criminal, are * not necessary to be expressly specified in such Impeachments?

It was resolved in the Affirmative: Contents 65; Not contents 47.

Dissentient

1st, Because, we conceive, the Law of the Land is as much the Rule of Judicature in Parliament, as it is in the inferior Courts of Justice; and since, by the Opinion of all the Judges in all Prosecutions by Information or Indictment for Writing or Speaking, the particular Words, supposed to be criminal, must be expressly specified in such Informations or Indictments; and that this is the Law of the Land, confirmed by constant Practice; we conceive, that there is the same Reason and Justice for specifying in Impeachments the particular Words supposed to be criminal, for otherwise a Person who is innocent and safe by the Law, out of Parliament, may nevertheless be condemned in Parliament.

For we conceive, that some Reasons of Law and Justice, why the Words supposed Criminal must be specified in Informations and Indictments, may be, that the Party accused may certainly know his Charge, and be thereby enabled to defend his Innocence; that the Jury may know it too, and be enabled thereby the better to apply the Evidence given by the

* The Judges having been consulted on this Occasion, unanimously gave it as their Opinion, that the Words supposed to be criminal ought to be specified.

Anno 8 Anne, the Witnesses to the Matter of such Charge ; and that the Judges themselves may the better judge of the nature of the Crime, and of a Punishment adequate to it ; which, in Cases of Misdemeanors, which are indefinite and innumerable, must extremely vary, according to the Heinousness of the Offence ; and finally, that the House of Lords, upon Complaint to them, may also judge whether the Fine, which is usually one of the Punishments for Misdemeanors, do not exceed the Demerit, especially since, by the Bill of Rights, exorbitant Fines are declared to be illegal ; which Reason seems to be fully as strong, in the Case of Impeachments, as in Indictments and Informations : For the particular Words are as necessary to enable the Lords to determine uprightly and impartially, as the Jury or Judges, and as necessary for the Defence of the Accused here, as in the Courts below ; and if there were to be a Difference, it seems more necessary in this High Court ; for the weightier the Prosecution is, the more need has an unfortunate Man of Indulgence and all lawful Favour ; and surely there cannot be a heavier Load upon a Man, than an Accusation by all the Commons of Britain.

2dly, We do not remember any Precedent insisted on for the Maintainance of this Resolution, save only the Case of Dr. *Manwaring*, which, we conceive, could not warrant this Resolution : For,

1. The Words charged upon him by the Commons Declaration were not compared with the Sermons, tho' it was desired, and consequently no Lord could say, they were not the Words of the Sermon ; and, therefore, upon such Uncertainty, we conceive, we could not ground a positive Resolution.

2. The Charge upon him, taken out of his Sermon, on the 4th of May, 1628, seems to be the very Words by him spoken, for they were attested by Ear-witnesses, who surely never were or could be admitted to attest their own Conjectures of the Scope of a Sermon, and not specify the very Words, for that would be to make the Witnesses to be the Judges.

3. Besides, in such a Case as this, where the Party did not insist upon any legal and just Exceptions, of which he might have taken Advantage, if he had made his Defence, which he did not, but submitted and begg'd Pardon ; this ought not to be looked upon as a Precedent or Authority to justify the Illegality of the Form of that Impeachment.

3dly, But altho' this Precedent were full, and express to the Point resolved, we humbly conceive, that one Precedent is not sufficient to support a Law and Custom of Parliament, nor consequently a Resolution declaring it ; for surely there

is great Difference between a single Instance and a Law and Anno 8 Anne, Custom.

1709-10.

4thly, Especially since, we conceive, that in all the Precedents, at least all that have appeared to us, for four hundred Years, of the Prosecutions in Parliament, the particular Words charged as criminal have been constantly expressed in the Articles, or Declarations of Impeachments.

E. II. *Exilium Hugonis le de Spencer Patris & Fili*, the first Article was, for making a Bill in Writing, the Tenour whereof was particularly set forth.

28. H. VI. *William de la Pool*, fifth Article was, for Words spoken by him sitting in the Council in the Star-Chamber, *viz.* That he said, he had a Place in the Council-House of the French King, as he had here, and was as well trusted as he was here, and could remove from the French King the priviest Man of his Council if he would.

Lord Finch.

The Opinions he delivered are set forth in *hæc Verba*, as Articles 4 & 5, also the Times when he delivered them.

1640.

Another Opinion delivered by him in the Exchequer-Chamber, and Western Circuit, is set down in his express Words.

7.

Doctor Cofens.

He is charged with Words delivered in a Sermon at Durham; the Words are these, *The Reformers, &c.*

1640.
Article 11.

Charges him with Words in like manner; the Words were these, *The King, &c.*

Article 19.

Berkeley.

The Words charged upon him are expressly mentioned.

1640.
Article 1.

That he subscribed an Opinion in *hæc Verba*, which are specified.

4 and 5.

The Matter therein charged, though of Record, was copied and delivered with the Articles.

6.

The Words spoken, and the Place expressly set forth.

7 and 8.

Judge Crawley.

For subscribing and giving Opinions, set forth in *hæc Verba*, Articles 1, 2, 3.

1641.

Herbert.

For exhibiting Articles against the five Members, which follow in these Words, &c.

1641.

Thirteen Bishops impeached for making and promulgating, a 1640, several Constitutions and Canons, contrary to the King's Prerogative, &c.

1641.

They demurred because the Charge was general, but rededed from this Demurr, because it appeared to be particular.

Earl

Amo 8 Anne,
1709-10.

1641.

Article 2.

4

26.

1642.

Art. 1, 4, 10.
2.

Earl Stafford.

Expresses the Words spoken by him, and the Time.
20, 21, 22, 23, 24, 25, 27, expresses the very Words
spoken by him.

Is in like Manner with an Innuendo of his Meaning.

Archbishop Laud.

Expresses the Words spoken by him.

Expresses the Words spoken by him, and the Time and
Place.

So necessary did the long Parliament itself think it, to
pursue the Forms of Law in all their Prosecutions.

Upon the whole therefore, we humbly conceive, that so
great a Number of Precedents is sufficient to outweigh the
single Instance of Dr. *Manwaring's* Case, how opposite so-
ever it may seem to be to the present Case, which, for the
Reasons we have mentioned, is far from being plain and
clear, or having the full Authority of a Precedent; and the
Law and Custom of Parliament, as we conceive, is to be
determined by constant Course and Practice, and not one
Precedent, occasioned by so odious Doctrines as those of
Dr. *Manwaring*; nor can the contrary Assertion to the above-
said Resolution be of any ill Consequence to Impeachments
by the Commons, because 'tis easy for them to specify the
Words which offend them, but extremely difficult for the
Accused to defend himself without knowing them; and as
all, who are charged criminally, have Leave to make their
Defence, so they shall also have allowed to them all lawful
Means for it.

*Jo. Ebor', Scarfdale, Beaufort, Berksire, Scarborough,
Conway, H. London, Thanet, Abingdon, North and Grey,
Osborn, N. Duresme, Plymouth, Denbigh, Rochester,
W. Cestriens', Guilford, Guernsey, Nottingham, North-
ampton, Willoughby de Broke, Howard, Sussex, Ferrers,
Yarmouth, Weymouth, Stawell, Lempster, Leeds, Angle-
sea, Jersey, Craven.*

March the 16th, The Order of the 14th Instant being
read, for taking into Consideration the Impeachment of Dr.
Henry Sacheverell, Article by Article,

And it being moved to declare, That the Commons had
made good the first Article against Dr. *Sacheverell*, a long
Debate ensued thereupon, of which Bishop *Burnet* gives the
following Abstract:

*Bishop Burnet's
Abstract of the
Debates on the
Doctor's Case.* It stuck long on the first Article; none pretended to justify
the Sermon, or to assert absolute Non-resistance: All who
favoured him, went upon this, that the Duty of Obedience
ought to be delivered in full and general Words, without put-
ting

Anno 8 Anne,
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ting odd Exceptions, or supposing odious Cases: This had been the Method of all our Divines. Pains were also taken to shew, that this Sermon did not reflect on the Revolution: On the other hand, it was said, that since the Revolution had happened so lately, and was made still the Subject of so much Controversy, those absolute Expressions did plainly condemn it. The Revolution was the whole Progress of the Turn, from the Prince of Orange's landing, till the Act of Settlement passed. The Act of Parliament expressed, what was meant, by the Abdication and the Vacancy of the Throne; that it did not only relate to King James's withdrawing himself, but to his ceasing to govern according to our Constitution and Laws, setting up his mere Will and Pleasure, as the Measure of his Government: This was made plainer, by another Clause in the Acts then passed, which provided, that if any of our Princes should become Papists, or marry Papists, the Subjects were, in those Cases, declared to be free from their Allegiance. Some of the Bishops spoke in this Debate on each Side; Hooper, Bishop of Bath and Wells, Bishops of Bath, spoke in excuse of Sacheverell: But Talbot, Bishop of Oxford; and Wells, Oxford, Wake, Bishop of Lincoln; Trimnel, Bishop of Norwich, and myself spoke on the other Side. We shewed the Falshood of an Opinion too commonly received, that the Church of England had always condemned Resistance, even in the Cases of extreme Tyranny: The Books of the *Maccabees*, bound in our Bibles, and approved by our Articles, (as containing Examples of Life and Instruction of Manners, tho' not as any Part of the Canon of the Scripture) contained a full and clear Precedent for resisting and shaking off extreme Tyranny: The *Jews*, under that brave Family, not only defended themselves against *Antiochus*, but formed themselves into a free and new Government. Our Homilies were only against wilful Rebellion, such as had been then against our Kings, while they were governing by Law: But, at that very Time, Queen Elizabeth had assisted, first the *Scots*, and then the *French*, and to the end of her Days continued to protect the *States*, who not only resisted, but, as the *Maccabees* had done, shook off the *Spanish* Yoke, and set up a new Form of Government: In all this she was not only justified by the best Writers of that Time, such as *Jewel* and *Bilson*, but was approved and supported in it: Both her Parliaments and Convocations gave her Subsidies, to carry on those Wars. The same Principals were kept up all King James's Reign: In the Beginning of King Charles's Reign, he protected the *Rounders*, and asked Supplies from the Parliament, to enable him to do it effectually; and ordered a Fast and Prayers to be made for them. It is true, soon after that, new Notions of

Anno 8 Anne, absolute Power, derived from God to Kings, were taken up ;
 1709-10. at the first Rise given to these by *Manwaring*, they were condemned by a Sentence of the Lords ; and tho' he submitted, and retracted his Opinion, yet a severe Censure passed upon him : But during the long Discontinuance of Parliaments that followed, this Doctrine was more favoured ; it was generally preached up, and many things were done pursuant to it, which put the Nation into the great Convulsions that followed in our Civil Wars. After these were over, it was natural to return to the other Extreme, as Courts naturally favour such Doctrines. King *James* trusted too much to it ; yet the very Assertors of that Doctrine were the first, who pleaded for Resistance, when they thought they needed it.

The Question was then proposed, that the Commons have made good their first Article of Impeachment against *Henry Sacheverell*, Doctor in Divinity.

Previous Question put on the first Article. And after further Debate thereupon, this Question was put, Whether this Question shall be now put ?

It was resolved in the Affirmative. Contents 68 ; Not contents 52.

Dissentient

Protest thereon. Because, we humbly conceive there are no Reflections therein contained on the Memory of the late King *William*, nor the Revolution, and that there is no Offence charged therein upon Dr. *Sacheverell* against any known Law of the Land.

Ormond, Leeds, Scarborough, Beaufort, Sussex, Tho. Roffe, Thanet, Henry London, Dartmouth, Marr, Guilford, W. Cestriens, Osborn, N. Duresme, North and Grey, Northbke, Guernsey, Hamilton, Suffolk, Poulett, Weymouth, Starwell, Geo. Bath and Wells, Sbrewsbury, Say and Seal, Jo. Ebor, Lexington, Leigh, Willoughby de Broke, Lempster, Buckingham, Jersey, Scarsdale, Haverham, Berkshire, Rochester, Craven, Denbigh, Abingdon, Anglesea, Howard, Berkeley of Stratton, Northampton, Plymouth, Weston, Yarmouth, R. Ferrers, Nottingham, Conway, Chandos, Wemyss.

Main Question pass'd in the Affirmative. Then the main Question was put, That the Commons have made good their first Article of Impeachment against *Henry Sacheverell*, Doctor in Divinity ?

It was resolved in the Affirmative.

Dissentient

Protest thereon. Because, by the Laws of the Land, the Laws of Parliament, and the inherent Right of Peerage, every Peer is to judge for himself, both of the Fact as well as of the Law, and cannot be precluded from it by any Majority ; which indeed

indeed must determine the Case, in respect to the Criminal, Anno 9 Anne, but never did, nor can preclude any Lord from voting the 1709-10. Party accused, guilty, or not guilty of the Fact, as well as of the Crime of such Fact.

Leeds, Jersey, H. London, Berkshire, Denbigh, Thanet, Scarborough, Craven, North and Grey, Osborn, Leigh, Sussex, W. Suffrains', Tho. Roffe', Lempster, Scarfdate, Northampton, Weymouth, Starwell, Plymouth, Abingdon, Yarmouth, Conway, Geo. Bath and Wells, Beaufort, Ashburnham, Nottingham, Rochester, R. Ferrers, Howard, Guernsey.

March the 18th, Ordered, that the Question to be put to each Lord in Westminster-Hall shall be, Question to be put in Westminster Hall.

Is *Henry Sacheverell*, Doctor in Divinity, guilty of High Crimes and Misdemeanors charged on him by the Impeachment of the House of Commons; and the Answer thereunto shall be Guilty or Not Guilty only. Contents 65; Not contents 53.

Dissentient'

1st, We do humbly conceive, that the obliging every Lord Protest thereon to answer generally, guilty, or not guilty, to a Question containing all the Articles of this Impeachment, is a kind of tacking upon ourselves, by an unnecessary joining, Matters of a different Nature, and subjecting them to one and the same Determination; and consequently may prejudice the Right every Peer has to give a free Affirmative or Negative, since whoever thinks Dr. Sacheverell guilty of one Part, and innocent of the other, will be obliged either to approve what he condemns, or condemn what he approves.

2dly, We do humbly conceive there is, at least, a Possibility, that though a Majority of the House, if admitted to vote to the Articles separately, may think him innocent upon each Article, yet, by this Method of a general Answer, he may be condemned of all; which seems not to be consistent with the usual Methods of Justice in this House.

3dly, We do humbly conceive, that since the Judgment of the House, in this Case, ought to be a Declaration of the Law, the Condition of the People will be most miserable, to have Punishment inflicted for High Crimes and Misdemeanors, and not to have a Possibility of informing themselves, what the High Crimes and Misdemeanors thereby punished, are; for the People's only Guide is the Law, and they can never be guided by what they can never be informed of: And we do humbly conceive, that this Uncertainty being in the Case of a Clergyman for Preaching, it may possibly create some Fears in good Men, when they preach

Anno 9 Anne,
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some Doctrines of the Church of *England*, particularly that of Non-Resistance ; and may be made use of, by ill ones, as an Excuse for the Neglect of that Duty, which, upon some Occasions, is required of them, even by the Laws of the Land.

Ormond, Denbigh, Weymouth, Howard, GEs. Bath and Wells, Leigh, Guilford, Willoughby de Broke, Stawell, Thanet, R. Ferrers, Guernsey, Beaufort, Northampton, Lempster, Plymouth, Abingdon, Weston, Berkshire, Scarfdale, Paulet, Nottingham, Sussex, Rochester, Craven, Conway, Jersey, Osborn, Leeds, Haverfham, Farnmouth, Anglesea, H. London, North and Grey.

The Doctor
voted guilty.

The Lords then went down to the Hall, where the Question being put upon the whole Impeachment, Guilty, or Not Guilty, fifty-two voted him Not Guilty, and sixty-nine voted him Guilty.

The next Debate was, what Censure ought to pass upon him : And here a strange Turn appeared ; some seemed to apprehend the Effects of a popular Fury, if the Censure was severe ; to others it was said, that the Queen desired it might be mild ; so it was proposed to suspend him from Preaching for one Year ; others were for six Years ; but by a Vote it was fixed to three Years. It was next moved, that he should be incapable of all Preferment for those three Years ; upon that, the House was divided, fifty-nine were for the Vote, and sixty were against it ; so that being laid aside, the Sermon was ordered to be burnt, in the Presence of the Lord Mayor and Sheriffs of *London* ; and this was done, only the Lord Mayor, being a Member of the House of Commons, did not think he was bound to be present. The Lords also voted, that the Decrees of the University of *Oxford*, passed in 1683, in which the absolute Authority of Princes, and the Unalterableness of the hereditary Right of succeeding to the Crown, were asserted in a very high Strain, should be burnt with *Sacheverell's Sermon*.

A LIST of the Lords who voted for and against Dr. Sacheverell.

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|-----------------------------|-----------------------------|
| Lord Hervey, guilty. | Lord Lempster, not guilty. |
| Lord Conway, not guilty. | Lord Guilford, not guilty. |
| Lord Guernsey, not guilty. | Lord Stawell, not guilty. |
| Lord Hallifax, guilty. | Lord Dartmouth, not guilty. |
| Lord Haverfham, not guilty. | Lord Offulton, guilty. |
| Lord Herbert, guilty. | Lord Osborn, not guilty. |
| Lord Weston, not guilty. | Lord Craven, not guilty. |
| | Lord |

| | | |
|---|---------------------------------|--------------|
| Lord Cornwallis, guilty. | Earl of Marr, not guilty. | Anno 9 Anne, |
| Lord Berkley of Stratton, not guilty. | Earl of Crawford, guilty. | 1709-10. |
| Lord Lexington, not guilty. | Earl of Chomondelcy, guilty. | |
| Lord Rockingham, guilty. | Earl of Poulett, not guilty. | |
| Lord Colepeper, guilty. | Earl of Wharton, guilty. | |
| Lord Byron, guilty. | Earl of Greenwich guilty. | |
| Lord Leigh, not guilty. | Earl of Grantham, guilty. | |
| Lord Moun, guilty. | Earl of Jersey, not guilty. | |
| Lord Howard of Escrick, not guilty. | Earl of Orford, guilty. | |
| Lord Hunsdon, guilty. | Earl of Bradford, guilty. | |
| Lord Chandois, not guilty. | Earl of Warrington, guilty. | |
| Lord North and Grey, not guilty. | Earl of Scarborough, not guil. | |
| Lord Paget, guilty. | Earl of Portland, guilty. | |
| Lord Willoughby of Broks, not guilty. | Earl of Plymouth, not guilty. | |
| Lord Fitzwalter, guilty. | Earl of Holderness, guilty. | |
| Lord Ferrers, not guilty. | Earl of Abington, not guilty. | |
| Lord Delarwar, guilty. | Earl of Rochester, not guilty. | |
| Bishop of St. Asaph, guilty. | Earl of Nottingham, not guilty. | |
| Bishop of Norwich, guilty. | Earl of Berkley, guilty. | |
| Bishop of Chester, not guilty. | Earl of Yarmouth, not guilty. | |
| Bishop of Lincoln, guilty. | Earl of Radnor, guilty. | |
| Bishop of Bath and Wells, not guilty. | Earl of Sussex, not guilty. | |
| Bishop of Oxford, guilty. | Earl of Carlisle, guilty. | |
| Bishop of Peterborough, guilty. | Earl of Anglesea, not guilty. | |
| Bishop of Ely, guilty. | Earl of Scarsdale, not guilty; | |
| Bishop of Sarum, guilty. | Earl of Sunderland, guilty. | |
| Bishop of Rochester, not guilty. | Earl of Thanet, not guilty. | |
| Bishop of Durham, not guilty. | Earl of Winchelsea, guilty. | |
| Bishop of London, not guilty. | Earl of Stamford, guilty. | |
| Lord Viscount Weymouth, not guilty. | Earl Rivers, guilty. | |
| Lord Viscount Say and Seal, not guilty. | Earl of Berkshire, not guilty. | |
| Earl of Ista, guilty. | Earl of Manchester, guilty. | |
| Earl of Glasgow, guilty. | Earl of Westmoreland, guilty, | |
| Earl of Roseberrie, guilty. | Earl of Denbigh, not guilty. | |
| Earl of Seafield, guilty. | Earl of Northampton, not guil. | |
| Earl of Orkney, guilty. | Earl of Leicester, guilty. | |
| Earl of Northesk, not guilty. | Earl of Bridgewater, guilty. | |
| Earl of Leven, guilty. | Earl of Dorset and Middle- | |
| Earl of Wymess, not guilty. | sex, guilty. | |
| Earl of Loudoun, guilty. | Earl of Lincoln, guilty. | |
| | Earl of Pembroke, not guilty. | |
| | Earl of Derby, guilty. | |
| | Marquis of Dorchester, guilty. | |
| | Lord Chamberlain of the | |
| | Houshold, guilty. | |
| | Duke of Dover, guilty. | |
| | Duke of Roxborough, guilty. | |
| | Duke | |

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| <i>Anno 9 Anneæ, 1710.</i> | Duke of <i>Montroſſ</i> , guilty. | Duke of <i>Beaufort</i> , not guilty. |
| | Duke <i>Hamilton</i> , not guilty. | Duke of <i>Ormond</i> , not guilty. |
| | Duke of <i>Buckinghamshire</i> , not guilty. | Duke of <i>Grafton</i> , guilty. |
| | Duke of <i>Bedford</i> , guilty. | Duke of <i>Richmond</i> , guilty. |
| | Duke of <i>Leeds</i> , not guilty. | Duke of <i>Cleaveland</i> , and <i>Southampton</i> , guilty. |
| | Duke of <i>Shrewsbury</i> , not guilty. | Lord <i>Steward</i> , guilty. |
| | Duke of <i>Schomberg</i> , guilty. | Lord <i>Privy-Seal</i> , guilty. |
| | Duke of <i>Balton</i> , guilty. | Lord <i>President</i> , guilty. |
| | Duke of <i>St. Albans</i> , guilty. | Lord <i>Treasurer</i> , guilty. |
| | Duke of <i>Northumberland</i> , not guilty. | Archbishop of <i>York</i> , not guilty. |
| | | Lord <i>Chancellor</i> , guilty. |

April the 15th, The Queen came to the House and put an End to the Session with a Speech to both Houses, which see in CHANDLER's History, Anno 9 Anneæ, 1710, Page 155.

Alterations at Court.

Immediately after the Rising of the Parliament the Public received the first Notice of an approaching Change of the Ministry, by the Queen's removing the Marquis of * *Kent* from being her Chamberlain, and appointed the Duke of *Shrewsbury* in his Room; which Alteration was followed by another of yet greater Importance, the Lord *Dartmouth* being made Secretary of State, June the 15th, in the Room of the Earl of *Sunderland*. In August the Earl of *Godolphin* was deprived of the Treasurer's Staff, and the following Persons were appointed Commissioners of the Treasury in his Room, *viz.* the Rt. Hon. *John Earl Poulett*, *Robert Harley*, Esq; *Sir Thomas Mansel*, Bart. and *Robert Benson*, Esq;

At the same time her Majesty appointed *Robert Harley*, Esq; Chancellor and Under-Treasurer of her Majesty's Exchequer, in the Room of *John Smith*, Esq; (who was afterwards made one of the Tellers of the Exchequer,) as likewise a Privy-Counsellor.

In September the Earl of *Rochester* was made President of the Council, in the Room of the Lord *Somers*; and the Duke of *Buckingham* and *Normanby*, Lord Steward of her Majesty's Household, in the Room of the Duke of *Devonshire*. And *Henry St. John*, Esq; Secretary of State, in the Room of *Mr. Boyle*, who resigned.

A new Parlia-
ment call'd.

And, Sept. the 26th, to perfect this thorough † Change, the Queen ordered a Proclamation for calling a new Parliament; and two other Proclamations for a public Thanksgiving on the 7th of November, both in *England* and *Scotland*, for the wonderful Course of Success this Campaign, and particularly the glorious Victory in *Spain*.

In

* The Marquis was some Days after created a Duke.

† The Duke of *Ormond* was likewise made Lord Lieutenant of *Ireland*, in the Room of the Earl of *Wharton*; and *Sir Simon Harcourt*, Lord Keeper: *Lord Cowper* having resigned the Seals.

In February the Duke of Marlborough, at the Instance of *Anno 9 Anne*,
 both Houses, had been dispatched to *Holland*; but tho' the Con-
 ferences at *Gertruydenberg* for a general Peace were renewed
 in *March*, and the Campaign was not opened till *April*, his *1710.*
 Grace never assissted in Person. All was left to the Manage-
 ment of the *States*; (tho' the Minister of the Emperor could
 never be brought to give his Allowance to so great a Piece
 of Confidence,) and tho' we were made Principals in carrying
 on the War, nay, had the labouring Oar put upon us by the
 whole Confederacy, as was more than once confessed by *Lord
 Godolphis* himself, we were now content to act, or rather to
 look on, as no way concerned in the Conclusion of it.

The *French*, however, were become so sick of their ambi-
 tious Projects, and so humbled with their repeated ill Suc-
 cesses, that they readily gave up *Spain* and the *West-Indies*, the
 Point we principally contended for, to *King Charles*; and
 reserved only *Sicily* for *King Philip*. They moreover offered
 an annual Subsidy to the Allies, till the *Spaniards* should be
 forced to come into this Partition; and only insisted that
 when the Treaty came on, no other Demands should be
 made upon them, than were contained in the Preliminaries:
 But the *Dutch*, now in the Meridian of their Greatness, were
 pleased both to put a Negative on the last Proposal, and to
 refuse the annual Subsidy; upon which the Negotiations were
 again broke off; and the Court of *France* sent a sort of
 Manifesto to the great Pensioner, in which they threw all the
 Blame of the Rupture upon the *Dutch*.

Europe was now to bleed anew; accordingly, in *April*, the
 Confederates enter'd the *French* Lines at *Pont-a-verden*, and
 invested *Dorway*; which, *June* the 27th, was surrendere'd to
 them, with the Loss of 2142 Men killed, and 5865 wound-
 ed: Of which, of the *English* 570 were killed and 1339
 wounded; in all, 8007 killed and wounded.

In *July* they invested *Bethune*, and reduced it in *August*.
St. Venant had the same Fate in *September*, and *Aire* in *Octo-
 ber*; but with the Loss of as many Men to the Confederates
 as they lost at *Dorway*.

In *Spain* the Battle at *Almenara*, near *Lerida*, was fought,
July the 27th: In which the Enemy's whole Cavalry was
 routed, and 1500 private Soldiers killed and wounded. After
 this *King Charles* takes *Balbastro*, *Huesca*, together with some
 other Places in *Arragon*; and *August* the 20th, *N. S.* he gain'd
 an entire Victory over the *Spaniards*, and enter'd *Saragossa*.

Notwithstanding which the Year ended fatally, eight *Eng-
 lish* Battallions and as many Squadrons being taken Prisoners
 in *Bribuega*; and the next Day the Battle at *Villa-viciosa*
 was fought, with almost equal Loss, though the *Spaniards*
 claim'd the Victory, *The*

Anno 9 Annae,
1710.

The Third Parliament of + GREAT BRITAIN

MET at Westminster, November the 25th, 1710, and the Commons having chose their Speaker, her Majesty, the 27th, opened the Session with a Speech to both Houses, which see in CHANDLER's *History*,
Anno 9 Annae, 1710, Page 169.

November the 28th, the Lords agreed upon an Address to the Queen, which they presented the next Day, being as follows:

The Lords Ad-
dress of Thanks.

WE your Majesty's most dutiful and loyal Subjects, the Lords spiritual and temporal, in Parliament assembled, present our humble and hearty Thanks for your Majesty's most gracious and excellent Speech at the opening of this Parliament, and particularly for the great Confidence your Majesty is pleased to place in the Duty and Affection of your Subjects.

We conceive it to be of the highest Importance, to carry on the War with Vigour in all its Parts, and particularly in Spain, in order to procure a safe and honourable Peace; and your Majesty may be assured, we shall concur in all reasonable Measures to that End; and we humbly hope your Majesty's great Example will engage all your Allies to join with your Majesty, in doing their utmost to the same Purpose.

We have the Happiness to agree entirely with your Majesty, in the several Resolutions you have declared so plainly and affectionately to your Parliament: and we think ourselves obliged to repeat our Thanks for your Majesty's great Care to transmit the Blessings of your Reign to posterity, by securing the Protestant Succession in the House of Hanover.

We cannot also but have a particular Satisfaction, in the Assurances your Majesty has given to maintain and encourage

2 page

† The fifteen Scottish Peers returned to this Parliament were as follow, viz. Duke of Hamilton, Duke of * Atholl, Marquis of * Annandale, Earl * Marshal, Earl * Eglintoun, Earl of Marr, Earl of Loudoun, Earl of * Hume, Earl of * Kinnoule, Earl of Northesk, Earl of Orkney, Earl of Roseberrie, Earl of Ista, Viscount * Kilbythe, Lord * Balmerino, Lord * Blantyre.

The Nine marked with *, were not of the last Parliament, but were chosen instead of the Nine following, viz. Duke of Montros, Duke of Roxborough, Marquis of Lothian, Earl of Crawford, Earl of Rothes, Earl of Wymess, Earl of Leven, Earl of Seaford, Earl of Glasgow.

rage the Church of *England* as by Law established, which Anno 9 Anne, is the first Support of the Monarchy, and the strongest Defence against Popery. 1710-11.

We have no more to add, but that we shall carefully endeavour, in all our Consultations, to proceed with that Unanimity and Dispatch, as may give the greatest Weight to them; and to assure your Majesty, that nothing shall be wanting, on our Part, to satisfy the World, that with an unshaken Zeal we will constantly defend your Majesty's Royal Person, Honour and Dignity, on which our Safety and Happiness so much depend.'

To this Address, the Queen returned the following Answer:

My Lords,

I A M very glad to find I have your Concurrence in the Queen's Answer Resolutions I declared to you, and give you Thanks for this Address, so full of Affection to me, and Zeal for the Public Good."

On the same Day the Address was voted, the Earl of Scarborough having made a Motion, that the Thanks of the Earl of Scarborough be returned to the Duke, some Objections were raised rough's Motion against it; and his Grace's Friends being apprehensive, that if the Question were put upon it, the Negative might carry it, said, it would be Time enough to speak of that Matter when the Duke was come Home; whereupon the House voted to adjourn. The next Day there was a Complaint made by a noble Peer, against the Lord Keeper, for taking upon him to introduce the Scotch Lords to the Queen, being himself no Peer by Patent: But the Lord Keeper excusing his Mistake, if he had committed any, with a great deal of Modesty; and on the other hand, the late Lord Chancellor Lord Cowper, maintaining that he had Right to act as he had done, no farther Notice was taken of it.

January the 2d, The Queen having, by Message, communicated the Advices she had received of the Misfortune befallen the British Troops in Spain, their Lordships presented the following Address to her Majesty:

WE, your Majesty's most dutiful and loyal Subjects, the Lords spiritual and temporal, in Parliament assembled, return our most humble Thanks to your Majesty for your gracious Message relating to the present State of Affairs in Spain, and for the Orders your Majesty has been pleased to give, for sending Troops of your own, and exciting your Allies to send some of theirs, in due time, in order to repair this Loss. And as this Misfortune may have been occasioned by some preceding Mismanagement,

Address thereon.

1710-11. Oo we
At Briuega under General Stanhope.

Anno 9 Anne, 1710-11. we take the Liberty to assure your Majesty, we will use our utmost Endeavours to discover it, so as to prevent the like for the future.

And such is the Confidence we have in your Majesty's great Prudence and Care, that we humbly assure your Majesty, we will, to the utmost, give all the Assistance in our Power, to recover the ill Condition of those Affairs, and to support the War against the common Enemy in all Places where your Majesty, in your Wisdom, shall think it necessary, for the obtaining an honourable and lasting Peace, in concluding of which, we entirely rely upon your Majesty.

To which Address her Majesty returned this Answer.

Queen's An-
swer.

THAT her Majesty took very kindly the Address of this House, and doth not doubt of the Lord's hearty Concurrence in supporting a War of so great Importance as this is."

Debate on the
Affairs of Spain.
Duke of Beau-
fort.

The Lords having resolved to enquire into the Management of Affairs in *Spain*, their Lordships, on the 4th of *January*, upon a Motion made by the Duke of *Beaufort*, made Application to the Queen to stay, for some Days, the Earl of *Peterborough*'s Journey to *Vienna*, that they might make Use of such Lights and Informations as he was able to give them, concerning those Affairs. Accordingly the Earl of *Peterborough*, who designed to have set out the next Day, having for that Purpose sent Part of his Servants and his Equipage to *Greenwich*, was countermanded; and the Peers having, on the 5th, taken the Affairs of *Spain* into Consideration, the Earl of *Abingdon*, Chairman of the Committee of the whole House, put severally five Questions to the Earl of *Peterborough*; to which his Lordship returned distinct Answers, containing the Substance of the Facts and Passages published, some Years before, by Dr. *Friend*, a Physician who attended his Lordship in *Spain*, in a Book, entitled, *An Account of the Earl of Peterborough's Conduct, &c.* wherein his Lordship's Management is justified and highly extolled; not without some Reflections on the Conduct of the other Generals in *Spain* and *Portugal*, particularly, the Earl of *Galway*'s. After this, the Lords ordered the Earl of *Galway*, and the Lord *Tyrawley*, (formerly known under the Name of Sir *Charles o Hara*) to appear before them the next Day, which they did accordingly; and the first having a Chair appointed for him without the Bar, by Reason of his Infirmities, was desired by the Chairman to give the Lords an Account of what he knew concerning the Affairs of *Spain*. The Earl of *Galway* having excused his Deficiency

examined,

ency in not expressing himself so properly as he could wish in the English Tongue, gave the Lords an ingenuous Account of his Conduct, from his first setting out for Portugal, till the Time he was recalled; with which their Lordships appeared to be well satisfied: And as he said, his Memory might have failed him in several important Particulars, he desired that he might be allowed to give in Writing, what he had delivered by Word of Mouth, which was readily granted.

As for the Lord Tyravley, being desired to say what he knew about the same Affairs, and not knowing the Drift of such an Enquiry, but rather suspecting his own Reputation might be concerned, his Lordship stood upon the Reserve, and said, ' That when he was in the Army he kept no Register, and carried neither Pen nor Ink about him, but only a Sword, which he used the best he could upon Occasion; and that all he knew, in general, was, that they always acted according to the Resolutions of the Councils of War.'

The Lords Galway and Tyravley being withdrawn, several Peers, particularly the Earls of Wharton and Godolphin, the Lord Halifax and some others, spoke in favour of my Lord Galway; and among the rest, the Duke of Marlborough said, ' That it was somewhat strange, that Generals who had acted to the best of their Understandings, and had lost their Limbs in the Service, should be examined like Offenders, about insignificant Things.' After a small Debate, the Lords adjourned to the Monday following, when the Earl of Galway delivered his Narrative in Writing, as did also the Earl of Peterborough the Recapitulation of his Answers, with several other Papers.

Jan. the 9th, The House of Peers being sat, in order to The Debate re-
relate the Consideration of the Affairs of Spain, the Duke of sumed.
Devonshire moved that Dr. Friend might be summoned to at- Duke of Devon-
tend, which was ordered. There being a great many Stran- shire, Earl of
ders in the House, the Earl of Godolphin moved, That the Godolphin,
House might be cleared: But the Duke of Buckingham op- Duke of Buck-
posed it, saying, That he supposed those Strangers were ingham
brought in by the Members themselves, and therefore were
under the Protection of the House; that it might afterwards
be moved, that the Lords eldest Sons should also go out, tho'
they had as much Right to stand behind the Throne, as the
Lords to sit where they sat; that he had, himself, enjoyed
that Privilege, and wished himself to be young enough to
be amongst them. Hereupon it was carried, that the Stran-
gers that had been placed in the Gallery, should be suffered
to stay.

The Preliminary about Strangers being over, the Duke
O o 2 of

Anna's Annex,
1710-11.

Duke of Buck-
ingham
Earl of Scar-
borough.

Earl of Whar-
ton.

Earl of Ferrers.

Earl of Peter-
borough.

The Queen
comes incognito
to the House of
Peers.

Duke of Buck-
ingham.

Earl of Peter-
borough.

Lord Cowper.

Earl of Peter-
borough.

The Earl of
Galway's Nar-
rative.

of *Buckingham* said, he hoped that Business would not take up so much of their Time as it had done two or three Years before: Upon which the Earl of *Scarborough* said, That the principal Point which they ought to take into their Consideration, and strictly examine into, were the Council of War held in *Valencia*, the 15th of *January*, 1707, N. S. and the joining of the Troops brought by the Earl of *Rivers*, with those under the Command of the Earl of *Galway*. After this the Earl of *Wharton* moved, whether the Earl of *Galway*'s Memorial should be read in the House, or in the Committee; and the Earl *Ferrers* saying, It was more proper to read it in the Committee; it was agreed it should be so; and the Earl of *Peterborough* having desired, that his Recapitulation might also be read in the Committee, the same was granted. After this the House adjourned during pleasure, and resolved into a Committee of the whole House, of which the Earl of *Abingdon* was chosen Chairman, as before.

It being known that the Queen desired to hear this memorable Debate *incognito*, the same did not begin till her Majesty was come, that is, about a Quarter past Two in the Afternoon. Hereupon the Duke of *Buckingham* moved, that the Earl of *Galway*'s Paper might be read; and the Chairman having ordered the Clerk to read it accordingly, the Earl of *Peterborough* renewed the Instances he had made before, that the Lord *Galway* might be asked some Questions, and that he and the Lord *Tyrawley* might be called in: But the Lord *Cowper* said, it that was not proper to ask the Lord *Galway* any Questions, till the Earl of *Peterborough*'s Narrative had been read in his Presence, which was agreed to. Hereupon the Earl of *Peterborough* said, that to avoid all Mistakes, he desired his Paper might not be called a Narrative, which might look like an Accusation, for he accused no body; but only a Recapitulation of his Answers. After this the Clerk read the Earl of *Galway*'s Narrative, being as follows:

‘ **I**N Obedience to your Lordships Commands, I present you with a short Narrative in Writing, containing the most material Occurrences that happened in *Portugal* and *Spain*, during the Time I had the Honour to command the Queen's Troops there.

‘ In June, 1704, being retired in the Country, I received the Queen's Commands to attend her Majesty at *Windsor*, where she was pleased to order me to go and take upon me the Command of her Troops in *Portugal*. I desired to be excused from accepting an Employment which I did not

think

think myself equal to, but the Queen seeming fixed in her ~~Ames~~ ^{1710-11.} Resolution, I obeyed.

Upon my Arrival at *Lisbon*, I found the two Kings of *Spain* and *Portugal* already marching for *Almeira*, and joined their Route. But the Season was much advanced, and it being thought impracticable to attack the Enemy there, it was soon resolved to retire into Winter-Quarters.

The Troops being in Quarters, I went to *Lisbon*, where I had certain Advice that *Gibraltar* was besieged, and *Marischal Tasse* gone thither; upon which, considering the Importance of the Place, I immediately sent to the Prince of *Hesse* (Governor there) four of the best Regiments of Foot under my Command, *viz.* the Battalion of Guards, my Lord *Barrimore*'s, Lord *Donmegall*'s, and Lord *Montjoy*'s; together with a large Supply of Ammunition and Provisions, which the Garrison wanted extremely. This Relief arrived in good Time, and proved so successful, as not only to defend the Place, but to hold out a Siege that entirely ruined the Enemy's Infantry, and prevented their being able to take the Field the following Spring in *Alentejo*.

Being informed of their Condition, as likewise that there was but a very small Garrison in *Badajoz*, I endeavoured to persuade the *Portuguese* to attack that Place, but could not then prevail; however, they took *Valencia de Alcántara* by Storm, and *Albuquerque* by Capitulation, under the Command of the Conde *das Galveas*, and afterwards retired to Quarters of Refreshment, as is usual in the excessive Heats of the Summer.

During this Interval I went to *Lisbon* to confer with the Earl of *Peterborough*. I found the King of *Spain* designed to embark with him; and not doubting but the Earl was bound upon some important Expedition, tho' I had no Orders to that Purpose, and had now only one Regiment of Horse, two of Dragoons, and five of Foot left under my Command in *Portugal*, I offered him whatever Part of these Troops he pleased to desire. The Earl accepted of my Offer, and chose the Royal Regiment of Dragoons, and *Cunningham*'s, taking likewise an Order with him from me to the Governor of *Gibraltar*, for such Regiments from thence as he should think fit to take on board, leaving only a sufficient Garrison for the Defence of the Town, and accordingly his Lordship took from thence those four Regiments, which I had sent thither to the Relief of the Place.

After the King of *Spain* and my Lord *Peterborough* were sailed, with great Difficulty I prevailed upon the *Portuguese* to besiege *Badajoz* in Autumn; but, instead of taking the Field, as we had agreed to do, in the beginning of September,

Aug 9, A.M. 1710-11, timber, it was the second of October before I could get them to invest the Place, under the Command of the Marquis das Minas. Our Cannon had already begun to play, with Success, when an Accident happened in a Battery, which I went to repair; and, being there to give the necessary Orders for that Purpose, I lost my Arm by a Cannon-Shot from the Town; but it is the general Opinion, that if the Deposition which I put in Writing, the very Morning the Misfortune happened to me, and proposed to a Council of War, where the same was agreed to, had been duly executed, Mareschal *Theffe* could never have relieved the Place, which must necessarily have fallen into our Hands in a very few Days.

Not long after the Seige was raised, News came of the Surrender of *Barcelona* to King *Charles*, and about a Month after, that Mareschal *Theffe* had marched with the best Part of the Forces, quartered on the Frontier of *Portugal*, in order to join the Duke of *Anjou*, and besiege *Barcelona* again.

Upon this I resolved to propose to the Portuguese to march to *Madrid*, concluding, that either the Duke of *Anjou* would, by this Means, be obliged to quit the Siege of *Barcelona*, or else that we could meet with no Opposition in our Way. For this purpose I took a Journey to *Lisbon*, even while my Wound, upon the cutting off my Arm, was still open, and had such Success with the King of *Portugal*, that his Troops took the Field the following Spring, by the 26th. of March, N. S. under the Command of the Marquis das Minas, with Intention to besiege *Alcantara*, and march that way to *Madrid*. Mean time the Duke of *Berwick*, who had been sent to command on the Frontier of *Portugal* in Mareschal *Theffe*'s stead, had thrown ten Regiments of Foot into *Badajoz*, and marched with seven more, and a Body of 4000 Horse towards *Alcantara*, in order to reinforce that Garrison, by the Addition of those seven Regiments, which he accordingly left there, and then came back to *Brocas* with his Cavalry; where we surprized him, beat his Rear-guard, pursued him a considerable Way, and took Possession of the Castle of *Brocas*; in which Place we left a Garrison to cover our Foragers, during the Time that we should lie before *Alcantara*.

After this, we continued our March to *Alcantara*, which surrendered to us in a very few Days; we took ten good Batallions Prisoners of War there, and found about sixty Pieces of Cannon in the Place, with great Store of Small-Arms and Ammunition.

After the Surrender of *Alcantara*, we crossed the *Tagus* there, and having taken in some Places of small Note upon

our

our March, and forced a Pass at *Maffagona*, where the *Alleys* had entrenched themselves, we advanced as far as the *Bridge of Almaras*. Año 9 Anh. 1710-11.

But here the *Portuguese* resolved unanimously to return Home again, notwithstanding all the Arguments the Generals of the Allies could offer to the contrary, which happened very unfortunately ; for had the Army marched directly from thence to *Madrid*, in all probability, we must have arrived there at the same time with the News of the Duke of *Anjou*'s being returned to *France* ; the Dutchess must have been obliged to escape alone ; and the Tribunals being still there, it is very likely the War would have been over.

Some of the *Portuguese* were willing to go back and besiege *Badajox*, which was entirely laying aside all Thoughts of *Madrid*, but others were for attacking *Cuidad Rodrigo*, and by joining with these, I engaged them, after the taking of that Place, to go to *Madrid*. But the Time, which was lost on this Occasion, had given the Duke of *Anjou* an Opportunity of returning from *France* to *Madrid*, from whence he withdrew the Court, and all the Tribunals, before our Army could reach that Place ; so, upon our Arrival there, we found *Madrid* an open Village ; and the Troops having been extremely weakened by so long a March, were not above 4000 Horse, and 8 or 10000 Foot.

The *Portuguese* Generals, and those of the Allies, thought it highly necessary the King of *Spain* should come to *Madrid*, as soon as possible ; for besides the Advantage his Presence might have been to his own Affairs, it was of the last Importance to us to be immediately joined by the Forces with the King, and under the Earl of *Peterborough*'s Command ; not being strong enough, without them, to attack the Duke of *Anjou* ; who had already received some Succours from *France*, besides the 5500 Horse, and 8000 Foot, of which the Duke of *Berwick*'s Army consisted, after he had been joined by the *Conde de la Torre*.

Being perfectly informed of the Enemy's Strength and Motions, and having great Reasons to believe that if we were joined in time by all the Forces with the King and the Earl of *Peterborough*, we might, in this favourable Conjunction, drive the Duke of *Anjou* entirely out of *Spain*, make ourselves absolute Masters of that Kingdom, and put an End to an expensive War : All the while we lay at *Madrid* and *Guadalazara* I dispatched every Day one or more Expresses, and the greatest Part of them Officers, with Letters to the King of *Spain*, and to my Lord *Peterborough*, representing to them both the Importance of our being joined forthwith, and earnestly desiring that no Time might be lost in improving so critical a Juncture. As

Aug 9 A.D. 1700-17. As the next best Means to advise our Friends of our
 Arrival at Madrid, the first Gazette Day, after we got thither, I caused it to be published in the Gazette, that we were there, and expected, in a very few Days, to be joined by the King and the Earl of Peterborough, hoping that the natural Curiosity of the Spaniards would give a printed Newspaper a free Passage.

But, notwithstanding all the Diligence that was used in this Matter, on our Part, near six Weeks were elapsed at Madrid and Guadalaxara, before we received any Advice that the King was upon his March to join us ; and, in the mean time, the Duke of Anjou's Army was so much increased by daily Reinforcements from several Parts, that he was now become superior in Number to us, even after we were joined by those Forces which the King and my Lord Peterborough brought along with them.

And I must say, that it is the general Opinion, and I do verily believe, as the Portuguese lost one fair Opportunity of putting an end to the War, by not marching directly from the Bridge of Almaras to Madrid, so we now lost another, for want of being joined in time by the Forces under the Command of the King of Spain and the Earl of Peterborough.

And, whereas the noble Lord is pleased to aver, That he never received any Advice from me, of my Arrival at Madrid with the Portuguese ; and, as an Argument of my Neglect of him on that Subject, produces an Instance of one Officer, that happened to pass through his Quarters with Letters from me to the King, and none for his Lordship : I am obliged to observe, that I gave this Officer an hundred Pistoles, and ordered him to go directly to the King of Spain, who then lay at Saragossa ; but he was accidentally forced to go out of his Way, to avoid one of the Enemy's Parties, which was the true Occasion of his passing through the Earl of Peterborough's Quarters at Valencia, contrary to his first Intention. But several other Officers, who were dispatched by me to the Earl, assured me they had the Honour to deliver him those Letters which I wrote to his Lordship from Guadalaxara : And even taking the Fact to be as the Earl of Peterborough is pleased to state it himself, it is plain his Lordship had, at least, some verbal Informations from that very Officer who passed through his Lordship's Quarters, and consequently could not be altogether ignorant, either of the Place where the Portuguese Army lay, or of the Necessity of joining them, without Loss of Time.

After the General had got King Charles proclaimed at Madrid, it was thought fit to advance to Guadalaxara : where he had, at last, Advice, that the King was coming

to join us, and at the same time were informed, that the Duke ^{Anno 9 Anno,}
of *Anjou* was at *Guadalaxara*, to which Place we marched
to prevent the Enemy from intercepting the King. Upon
our Approach, the Duke of *Anjou* repassed the River, which
little Advantage we contented ourselves with, for it was not
thought adviseable to follow, and attack him on the other
Side, being advantageously posted, and stronger than we.

We stayed here two Days, and when we thought the
King was out of Danger, we again retired to *Guadalaxara*,
where we were joined by his Majesty and my Lord *Peterbo-*
rough, with two Regiments of *Spanish Dragoons*, and Part of
Pearce's, for his Lordship had left behind him, in several
Places, thirteen Battallions of *English Foot*, with the Remain-
der of *Pearce's*, and two other entire Regiments of Dra-
goons.

So soon as the Armies were joined (having, upon my
Arrival at *Madrid*, sent Captain *Montague* to give the Queen
an Account of our March, and to desire her Majesty's Leave
to retire) I waited upon my Lord *Peterborough*, offering him
the Command of the *English*, and to receive his Orders, till
I should have the Queen's Leave to go Home: But because
the Marquis *das Minas* would not do so too, my Lord *Peter-*
borough chose not to stay with the Army, and within a few
Days after went away.

The King resolved, by Advice of the General Officers,
to go to *Chincon*, where all Things necessary for the Army
were found in great Plenty: But the Season being far ad-
vanced, a Council was held about taking Winter Quarters;
where it was agreed to be by no means safe to canton on
that Side the *Tagus*, for fear of losing all Communication
with the Sea; besides, the Country was so open, the Troops
could not be divided without Danger.

For these Reasons, after having stayed at *Chincon* about
three Weeks, tho' the Army had Forage and Provisions for
as many more, it was agreed forthwith to cross the *Tagus*;
lest the approaching Rains should render the Fords imprac-
ticable; nor was there a Possibility of taking Winter Quar-
ters so commodiously as in the Kingdom of *Valencia*, where
the Situation of the Country rendered us secure against any
Attempts from a superior Army.

This Resolution was put in Practice, and we made our
Retreat in good order, notwithstanding all the Interruption
the Enemy were able to give us, and were obliged at *Yniesta*
to cross the River in Sight of all their Cavalry.

Whilst the Army was in Quarters, my Lord *Peterbo-*
rough came back from *Italy*; and whereas it has been sug-
gested, that his Lordship did then demand from me 5000

Anno 9 Anneæ, 1710-11. Men, for some Expedition on the Side of *Catalonia*, which were refused; I must declare I do not remember that the Earl ever applied himself to me, in particular, upon that Subject; if he had, the Answer must naturally have been, that the Matter depended not upon me to grant, or refuse, but upon the King of *Spain*, under whose Command I was.

‘ But I do remember the Earl proposed this at some general Council, or Council of War, held in the King’s Presence, about the Operations of the ensuing Campaign, and joined with those that were of Opinion, that it was by no means convenient to divide the Troops, as may appear by a Copy of that Opinion signed by my Lord *Tyrawley*, and by me, bearing Date the 15th Day of *January*, 1706 7. But I must beg Leave to observe, that was not the decisive Council for the Operations of the Campaign, for many subsequent Councils were held in the King’s Presence, more important than this; and tho’ in them there might have been some Variety of Opinions as to the Manner, yet almost all the Generals and Ministers that assisted at those Councils, agreed perfectly in the Substance, which was, That we should join our Troops and march to *Madrid*: Some indeed, were for passing thro’ the Plains of the *Mancha*, and crossing the *Tagus*; but this Opinion was over-ruled, because of the Hazard in passing the River if the Enemy opposed us, and of the Scarcity of Provisions in the *Mancha*, which had been exhausted by the Enemy’s Winter Quarters; for which Reasons it was, after many Debates, agreed, That we should take the Way of *Valencia* and *Arragon*, passing the *Tagus* at its Head, to avoid all Opposition. But lest the Kingdom of *Valencia* might, by this means, be any ways exposed, it was likewise resolved, before we should begin our March, to destroy all the Enemy’s Magazines of Provisions and Forage, in the Country bordering upon the Frontier of *Valencia*, to prevent them from making Incursions: And I do take upon me to aver, that nothing was ever transacted, during the Time I had the Honour to command the Queen’s Troops, contrary to the positive Resolution of any General Council, or Council of War, unless that Resolution was afterwards repealed by some subsequent Council.

‘ So sensible was every one of our being already too weak, it was resolved to desire my Lord *Rivers* (who was lately arrived at *Lisbon*) would join us with the Troops that came under his Command from *England*, which his Lordship did, not long after.

‘ For the better Execution of what had been resolved for our March thro’ *Valencia* and *Arragon*, proper Commissaries and Officers were dispatched to provide Bread and Forage sufficient

sufficient for the Troops, in all Places where it was designed the Army should pass. I went with the Marquis das Minas to the Frontiers, towards the latter end of March, and we took the Field the beginning of April: We ruined Part of the Country bordering upon the Frontiers of Valencia, before the Enemy could join their Troops, particular Yecla, where they had their largest Magazines; and judging it necessary to take in the Castle of Valencia, to prevent their Army from being Masters of one of the most considerable Inlets into the Kingdom of Valencia, sat down before that Place; but it proved stronger than was expected, and after we had spent some Days there, we had Notice the Enemy had assembled their Troops at Almanza.

Upon this Advice, a Council of War was held, where it was unanimously resolved to fight the Enemy, which we were the rather induced to, because it was judged impossible to subsist upon the Defensive in the Kingdom of Valencia; for the Country had already been so much exhausted by our Winter-Quarters, that there was not two Days Provision to be found for the Army, and we could not have been able to have subsisted there so long as we did, but for the Supply we found in the Enemy's Magazines at Yecla: Nor did we think it proper to pursue the once intended March through that Kingdom and Arragon, lest Provisions should be wanting, leaving the Enemy so near, and in a Condition to follow us; for tho' Commissioners had been employed, there was Reason to apprehend, the Towns we were to pass through would shut their Gates against us, whilst we were closely followed by the Enemy, and persecuted by the Peasants of the Country, who, grown desperate by seeing themselves abandoned, would naturally be up in Arms in the Mountains. Besides, we had certain Advice that there was already a Body of French Troops, consisting of 8000 Men in Spain, and upon their March to reinforce the Enemy. Thus, as the Army must inevitably have perished, without fighting, it was thought reasonable to run the Hazard of a Battle, wherein we had an equal Chance to come off Victors; which was accordingly done two Days after, on the 25th of April, 1707, N. S. but with ill Success.

The Cavalry of the Allies, with some small Part of the Foot that had escaped the ill Fate of the Day, joined again at Alcira, from whence they retired to Tortosa; and, finding the Enemy had crossed the Ebro, endeavoured, by opposing their Passage over the Chinca, to amuse them till the latter end of the Campaign. Mean time, with great Expedition, I gathered the broken Remains of the Foot, (out of which I formed five Battalions, and raised four more of Catalans,



Anno 9 Anneæ, with which we made a Stand against a victorious Enemy, and
 1710-11. preserved the Principality of *Catalonia* entire, excepting *Lerida*. After the taking of which Place, the Enemy thought fit to retire to Winter-Quarters, and we did the same.

In February following the Marquis *das Minas*, with most of the Portuguese Generals, embarked for *Lisbon*; and having the Queen's Leave to do so too, I visited the several Quarters where the Troops in her Majesty's Pay, were lodged; and, having left the necessary Orders with Majors Generals, *Carpenter* and *Wills*, for their Government in my Absence, took the same Opportunity of going thither.

Upon my Arrival in *Portugal*, I found the Queen's Orders there, to take upon me the Characters of Ambassador Extraordinary, Plenipotentiary, and General of her Forces; which Charges I accepted in Obedience to her Majesty; tho' I had nothing so much at Heart, as the Pleasure of returning to that Retirement, from whence, only the Queen's positive Command could have drawn me.'

Earl of Rochester.
 Earl of Godolphin.

After the reading of this Paper, the Earl of Rochester moved, That the Lord *Galway* shou'd be asked, whether he had any thing to add to it? Whereupon the Earl of Godolphin said, That the Earl of *Peterborough*'s Narrative ought to be read before-hand, in his Presence. The Earl of *Galway* and the Lord *Tyravly* being called in, the Clerk read the

The five Questions that were put the Friday before to the Earl of *Peterborough*, with his Lordship's Answers, separately.

Earl of Peterborough, and his Lordship's Answers.

F I R S T Q U E S T I O N.

That the Earl of *Peterborough* be desired to acquaint the Committee how he was supported with Men and Money, during the Time he commanded in *Spain*, and what Applications he made for either, and to whom?

A N S W E R.

To the first Question he was pleased to answer, That the Management of the War in *Spain*, when under the Conduct of other Generals, was not only supported by great Numbers of Men, and vast Sums of Money, but also with notorious Falshoods, published in their Favour, to excuse their repeated Disgraces; whereas his Lordship was not supported as the Service required, with either Men or Money; but had his Conduct traduced, notwithstanding his constant Successes, by Multitudes of Representations and Suggestions to his Prejudice; all of them detected to be false, before your Lordships, on the Evidence lying before the House, or in his Hands to prove them so, whenever his Lordship should be allowed the Opportunity.

That

That he had no Reinforcements of Men till three or four Anno 9 Anno^{1710-11.} Days before the French raised the Siège of Barcelona ; that Mr. Stanhope, who came with those Forces, in his Letter represents them, as far short, in his Opinion, of what the Occasion required ; and that he received no Money from England, till his coming back to Valencia, after that Siege, and that little Sum was out of his Lordship's Power to make use of, the Pay-master, for above a Month, disputing to issue it, by his Lordship's Orders, as appears by Proofs upon Oath in this House.

That the Troops he brought there did not amount to 5000, tho' publish'd in the English Gazette to amount to 25000.

That no one Regiment was provided with the least Equipment ; no Mule, nor Horse ; no Carriage for the Troops, nor any Beast of Draught for the Artillery ; no Magazines for Provisions for a March. His Lordship having taken and relieved Barcelona, drove 7000 Men with 3000, out of Valencia, and 25000 Men out of Spain, with the inconsiderable Forces he had, before he received one Penny from England. His Lordship said farther, he never had any Establishment ordered, nor was allowed for Baggage-Money, Forage-Money, or the Train of Artillery, till just about the Time when the Command of the Forces was put into other Hands. His Lordship was pleased to say, he was forced to shift as well as he could, with what Money he had of his own, and could pick up and down the World, and was rewarded for his Pains and Services, with having his Bills protested, which he drew from Genoa, for Monies put on board her Majesty's Ships ; for which her Captains were accountable to the Pay-master, and put out of the Earl's Power. That the Troops received the full Sum, without any Discount, tho' it was made use of by a Secretary of State, as one Motive for recalling his Lordship, that he had drawn the Bills at 25 per Cent. Discount. The Earl further took notice, that, tho' he wanted Money, and all Necessaries whatsoever, it was objected to him, that he did not immediately put the Troops in such a Condition into the Field, which was utterly impossible, for the aforesaid Reasons ; and his Lordship affirmed, that a Merchant had stopped, and yet detained 1400 £. of his Lordship's Money in his Hands, for the Damages he pretended to have received by the protesting the Bills, which the Earl of Peterborough had drawn in his Favour.

His Lordship further observed, that some Lords had seemed unsatisfied upon this Head, tho', notwithstanding all those Difficulties, it appeared by the Oaths of all the Officers

Anno 9 Anne, cers examined in the House, that the Troops sent to the Siege
 1710-11. of *Requena* went without Baggage, which Place was to be
 taken to make the Entrance into *Castile* possible; and that
 all the Regiments begun their March, Regiment by Regi-
 ment, the Moment they had their Mules delivered to them
 for the Equipage. His Lordship concluded this Head with
 observing what untrue Representations were made in favour
 of others, when, to excuse the fatal Battle of *Almanza*, a King
 was to be used at that Rate, as to have it in an Account prin-
 ted by Authority, declared, That he took Numbers amount-
 ing to 4 or 5000 Men, from a Battle to be fought for his
 Crown; the very Regiments of Horse and Foot being men-
 tioned by Name; whereas it is notoriously known to the whole
 World, that he took only about two hundred miserable *Span-
 ish* Dragoons; and that of the Regiments mentioned to be
 taken away from the *English* General in *Valencia*, some of
 them were never in being; others were Regiments of Trained-
 Bands in *Barcelona*, and none of them within 250 Miles of
 the Place.

SECOND QUESTION.

That the Earl of *Peterborough* may acquaint the House of
 what he knows of the Earl of *Galway*'s Proceedings during his
 Stay with the Army at *Madrid*, his March to *Guadalaxara*,
 and his Retreat to *Valencia*, and if he knows any thing of
 the Opposition made by the King of *Spain*, the Count *De
 Noyelles*, and the *Spanish* Ministers and Generals to those
 Measures?

ANSWER.

To the second Question the Earl was pleased to answer,
 That from the Time the Earl of *Galway* came first into *Spain*
 as far as *Almaras*, and thence returned back into *Portugal*,
 the Earl of *Peterborough* had no Advices from the Earl of
Galway, no Account of the Motives of that Retreat, nor any
 Hopes given him of the Return of the *Portuguese* into *Spain*.
 That, after the raising the Siege of *Barcelona*, and the Retreat
 of the *French* Army out of *Catalonia*, the Earl of *Peterbor-
 ough* received no Letter, or Message, from the Earl of *Gal-
 way*, after his second Entrance into *Spain*; nor had he the
 least Notice of his Situation, Circumstances or Designs, till
 he saw his Troops retreating from the Enemy to take the
 strong Camp of *Guadalaxara*, though the Marches of the
 King from *Arragon*, and those of the Earl of *Peterborough*
 from *Valencia*, were well known in the *Portugal* Camp.
 That two several Officers, sent by my Lord *Galway*, came to
Valencia, and brought no Letters to the Earl of *Peterborough*,

one of them demanding Money for the Pursuit of his Journey. Anno 9 Anne, 1710-11.

That as to the Persons who advised the King to go by *Arragon*, and not by *Valencia*, he knows no farther, (being at that Time absent from his Majesty) but that having extremely opposed it, and having writ to the Secretary of State, at his first coming to *Valencia*, against it, he received an Answer to this Purpose, That he hoped the Earl of *Peterborough* would bear the Mortification and Disappointment with Patience, since the King was so resolved; and a Messenger by the appointed Token, known to be sent by the Lord *Galway*, had given notice, that the said Earl expected the King by the Way of *Arragon*, and had given to understand how every thing was prepared for his Reception that Way.

THIRD QUESTION.

That the Earl of *Peterborough* acquaint the House, what Advice his Lordship received from the Earl of *Galway* at *Madrid*, in order to concert any public Measures, and what his Lordship knows of the Reasons that induced the King of *Spain* to go by *Arragon* towards *Madrid*, and not by *Valencia*?

ANSWER.

To the third Question the Earl is pleased to answer, That the Earl of *Galway* continued about forty Days at *Madrid*, without making any Endeavours to augment his Troops, or provide any Magazines for the Subsistence of his Army; that meeting the Enemy unexpected, and retreating to the Camp of *Guadalaxara*, the Troops were without Provisions, and in the greatest Disorder; that the Measures taken in that Retreat, where 5000 Men were lost without a Blow, and the whole Cavalry ruined, were positively against the King's Opinion, and that of all his Officers and Ministers: That the Earl of *Peterborough* had the Accounts he gives from the King of *Spain*'s own Mouth, and several of his Generals; and it will particularly appear by Letters from Count *Noyelles*, Velt Mareschal of the Emperor, and General to the King of *Spain*, and from Mr. *Stanhope*, which Letters the Earl is ready to produce; and that it is notorious to the whole World, that if the Earl of *Galway* had pursued the Enemy ten Days longer towards the *Ebro*, all the Horse under the Mareschal of *Berwick* had deserted to King *Charles*, and the *French* could never have returned to *Spain*.

FOURTH QUESTION.

If his Lordship pleases to give an Account of the Councils of

Ann 9. Anne, of War in *Valencia*, about the 15th of *January*, 1707, upon
 1710-11. Notice of the Earl Rivers sailing into the *Straights*, and upon the Projects of that Campaign, and what Number the King took from the Army, and an Account of his Manifesto, upon so doing?

A N S W E R.

To the fourth Question the Earl is pleased to answer, that several Councils of War were held in the Month of *January*, at *Valencia* (about that time that the Intelligence was brought, that the Forces under the Earl Rivers were entered into the *Mediterranean*) in order to adjust the Measures for the ensuing Campaign; that the Matters therein debated, were principally, whether the Army should march towards *Madrid*, and seek the Enemy? In the Debates, the Earl of *Peterborough* positively affirms, that the Earl of *Galway*, Mr. *Stanhope*, and the Lord *Tyrawley*, supported those Measures, with the *Portuguese* General; and that the King, the Count *de Noyelles*, the *Spanish* Generals and Ministers, with himself, argued strongly against those Measures, as highly dangerous and impracticable, and this in repeated Councils of War; till at last the Earl of *Peterborough*, solicited by the King of *Spain* to renew the Debate, desired the King, that all called to the Council should bring their Opinion in writing, that every body's Opinion and Reasons for that Opinion, might appear, and be known to the Words, which, according to the King's Commands, were put in writing and delivered at the Council. That the said Earl sent his Opinion home, and gave the Lord Treasurer an Account of the controverted Points in that Council of War, by Letters about that time, and after the Battle of *Almanza*, from *Genoa*; which Letters, attested upon Oath to be true Copies, he is ready to produce.

That the King's Opinion, and that of all his Generals and Ministers, in concurrence with the Earl of *Peterborough*, were over-ruled by a Minister of her Majesty, assuring that her Majesty had given him Orders to declare, in her Name, that her positive Orders were, that they should seek the Enemy, march to *Madrid*, and not divide the Forces, upon any Occasion whatsoever.

That, in a subsequent Council of War, the best Measures were concerted for the putting this in Execution, against which the King and so many Generals and foreign Ministers had declared; and that it was unanimously agreed, the Army should march by the Head of the *Tagus* into *Arragon*, to avoid the Enemy's Horse in the Plains, and not to have that River to pass before the Enemy.

That,

That, notwithstanding this, the Earl of *Galway* brought Anno 9 Anne, the Army into the Plains of *Valencia*, the direct contrary 1710-11. Route to that of *Aragon*, and into all those Danger's which he was to avoid, by marching by the Head of the *Tajo*.

That, by Letters from my Lord *Sunderland* to Mr. *Stanhope* and Lord *Galway*, before the House, it appears, that these Lords and Persons differed in Opinion from the rest. The Subject-matter of their Opinion being inserted, and it being taken Notice of in such Letters, that these Opinions in Writing were received, and agreeable to the Lord Treasurer's Thoughts; and Mr. *Stanhope* thanked and approved, for what he had offered in the Queen's Name.

That the Earl of *Peterborough* was the more of that Opinion, because the Duke of *Savoy* and Prince *Eugene* had declared their Sentiments for a defensive War at that Time in *Spain*; and had communicated their Thoughts to *Charles III.* upon that Subject, to the certain Knowledge of the Earl of *Peterborough*, as he can make appear by authentic Papers from the King of *Spain*.

That the Earl sent a Project of the Duke of *Savoy* and Prince *Eugene*, in concert with himself, to the Queen, which her Majesty had herself required, in which the said Sentiments might appear, if the Earl had the Queen's Leave to produce it.

That he went into *Italy* by the Queen's Commands and solicitations, with Powers and Authorities to negotiate and treat with the Duke of *Savoy*, tho' it is true he was found fault with for so doing, as if he had not the Queen's Orders, (which yet he is ready to produce) and was recalled upon that Pretence; that those Orders were communicated to the King of *Spain*, Lord *Galway*, Mr. *Stanhope*, the Generals and Ministers of the Army, when at *Guadalaxara*, and he was by them unanimously solicited to go for *Italy*, in pursuance of those Orders, and this agreed to in a Council of War.

That an Objection raised, that he went alone, when ordered to go with Troops, is of no Weight, since, while he was preparing to execute those Orders according to that Letter, a strong Squadron of the Ships were commanded away to the *West Indies*, under Admirals appointed from *England*, and the particular Ships mentioned for that Service. That those Orders were founded upon the Supposition that *Madrid*, and all *Spain*, were in the Hands of King *Charles*; that notwithstanding the total Alteration of Affairs, it was not in the Power of the Earl of *Peterborough* to prevent this fatal Separation of the Fleet, tho' he proposed, and solicited the other Admirals to join with him in setting aside Orders so prejudicial to the Public, but could not pre-

Anno 9 Anne, vail; when yet they allowed it made the Fleet useless for
 1710-11. that Year where they were, and that the Squadron under
 their precise and positive Orders, could be of no Service in
 the West Indies, nor even to go out of there, to pursue the
 Galleons, had they had Intelligence of them.

That the King of Spain, Count Njeller, Mr. Stanhope, and Zinsenling, by the King's Order, solicited the Earl of Peterborough's Return into Spain, and he was ordered by his Catholic Majesty to solicit, in the most pressing manner, that the Earl of *Gatway* might be recalled, and the Portuguese Troops removed; that, accordingly, when he had sent the Project upon *Toulon*, and against *France*, to the Secretary of State, he returned; and assisted at the several Councils, which are now enquired into, and of which he has given a full and true Account; and that he was the more pressing and endeavouring to prevent the rash Measures which brought on the Battle of *Almanza*, because the Defensive in *Spain*, was agreed on by the Duke of *Savoy*, and Prince *Eugene*, in order to the Design projected against *Toulon*; which Design against *Toulon* was wholly altered, and made so impracticable, that the Duke of *Savoy*, in the most public and solemn manner, declared his Unwillingness to engage in it.

That then in those Councils, when the Earl *Rivers* was arrived, and landed at *Alicant*, farther Debates arose what Advices should be given him, and what proposed to him to execute with his Troops: The Project approved, and offered by my Lord *Gatway* and Mr. *Stanhope*, was (to the best of his Remembrance) that the Troops should advance to some little Town near the Enemy, with Assurance given my Lord *Rivers*, that, in some few Days, he should be sustained with a considerable Body of Horse, and some Foot: That in this Particular he refers himself to the Earl *Rivers*, not having so perfect Remembrance of it as the rest, but that he perfectly remembers that he opposed, with the utmost Warmth, that any Proposition should be made to the Earl *Rivers*, it being certain (however dangerous and improper it was) that should such Measures be pursued, that Earl, being wholly ignorant of the Situation of Affairs, would not object against marching towards the Enemy.

He perfectly remembers, that, at these Councils, there was no Account given, that could be depended upon, of the Enemy's Forces, who, at that Time, were known to have a Body of near 10,000 Horse, and might soon be drawn together from their Quarters; he knew that these Troops could do no Service, but must remain fatigued and exposed, without the Forces promised in a few Days to support them, which

which he was certain could not join them in a Month, and Anno 9 Anne, thought himself obliged to give my Lord Rivers and Brigadier Gorges this Account, that the Earl Rivers might take the utmost Cautions, and be upon his Guard.

That according to the Account he gave, the Earl Rivers's Forces were fatigued and exposed, for near a Month, without any Reinforcement from the Earl of Galway; and, at last, Orders were sent to make a Retreat, which could not be executed without great Hazard to the Troops.

That upon the Earl Rivers's Arrival at *Valencia*, after such Usage to himself and her Majesty's Troops, the Earl of *Peterborough* met him just going to the King, and told him, why he was so positive in the Information given him, that he should not be joined by any Troops in a Month's Time; which was, because he knew that the new Commissaries they had chosen for furnishing Bread and other Provisions for the Troops, at a higher Rate than they were furnished before, were not engaged by their Contract to deliver the Necessaries for their Troops which were to join the Earl Rivers, till a Month after the Time they were promised it; and the Earl of *Peterborough* then desired the Earl Rivers to ask the King, Whether this Matter of Fact were not true? Who, as he believes, might tell him the same thing.

FIFTH QUESTION.

What the Motives were of the King of *Spain*'s leaving the Army, when it was resolved to march towards *Madrid* and towards the Enemy; and whether there were any Orders pretended from *England* for those Measures?

ANSWER.

To the fifth Question the Earl is pleased to answer, That the King of *Spain*, when the Troops were marching into *Murcia*, towards the Enemy, assembled a Council to no other Purpose, but to send, by the Hands of his Secretary of State, a Protest, with his Reasons why he would not march with the Army, but go to protect his Subjects in *Catalonia*: the Contents of which Protest, the Earl very well remembers, having had a Copy of it, by the King's Order. And that he had Instruments under the King's Hand and Seal, to shew how he was over-ruled, and contradicted in the Matters he thought fit to propose for the public Service.

After the reading the Earl of *Peterborough*'s Recapitulation, the Earl of *Abingdon*, Chairman of the Committee, asked my Lord *Galway*, Whether he had any thing to add to his Paper; to which his Lordship answered, "That his Memory suggested to him nothing more at that time, but

April 9 Anne,

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that, if the House were pleased to allow him a Copy of the Earl of Peterborough's Paper, he might make some Remarks upon it : ' Which was granted.

His Lordship's
Question to
Lord Tyrawley,
and his Answer.

The Chairman of the Committee asked afterwards the Lord Tyrawley, Whether he was willing to communicate to the Lords, what he knew concerning the Council of War held in *Valencia*, the 15th of *January*, 1707. N. S. To which he answered, ' That the Reason why he was shy of speaking the Friday before, was, because he thought himself accused ; and as his Doubt still continued, and no body is obliged to accuse himself, he desired to know, whether he was accused or no ? And if he was, he desired a Copy of the Accusation, that he might put in his Answer.'

Duke of Argyle.

Hereupon the Duke of Argyle said, ' That the Lord Tyrawley's Question was improper ; that he was there in order to be examined by the Lords, and that he ought to answer to such Questions, as should be put to him by the Chairman.' The Lord Tyrawley insisting, that if he were accused, he ought to make his Defence according to the Forms of

Earl of Peterbo-
rough.

Courts of Judicature ; the Lord Peterborough said, ' That he accused no body ; that the Lord Tyrawley was a gallant Man, but that, as it commonly happens, he might have been swayed by the Opinion of his Superiors ; ' whereupon the Chairman told him, he was not accused. Notwithstanding

Lord Halifax.

this, the Lord Halifax said, ' That the Lord Tyrawley's Question was not altogether ill-grounded. That any thing that tends to a Censure, may be looked upon as an Accusation ; and that the House of Peers, being the supreme Court of Judicature, they ought to observe the Forms of Justice, as well as inferior Courts.' A Debate being like to ensue

Duke of Buck-
ingham.

thereupon, the Duke of Buckingham moved, ' That the Persons at the Bar might withdraw ; which they did ; and then his Grace complained of the Earl of Abingdon's saying to the

Lord Halifax.

Lord Tyrawley, he was not accused. The Lord Halifax said, ' They were entered upon a large Field, that this Business had taken up much of their Time three Years before, to little Purpose ; that the Council in *Valencia* was a Point of no Weight or Consideration ; but that, if it was made to be the Cause of ill Measures, the Lord Tyrawley was involved in the same Accusation with the Lord Galway.' Here-

E. of Abingdon.

upon the Earl of Abingdon justified what he said, *viz.* That the Lord Tyrawley was not accused ; urging, it was impossible he should, because the House of Peers only judges, but

Duke of Argyle.

never accuses : After which, the Duke of Argyle, in Answer to the Lord Halifax, said, ' That three Years before, they enquired how Spain had been got, but now they enquired how it came to be lost ; and that they were only enquiring,

and

and not accusing ! To this the Duke of Marlborough replied, *Anno 9 Anne,*
 ' That he could not perceive the Tendency of such an En- *1710-11.*
 quiry ; but, if they designed to censure Persons, who had
 acted to the best of their Understandings, they would have *D. of Marbo-*
 no-body to serve them ; and that it appeared by General rough.

Stanhope's Letter to Mr. Secretary Hedges, that the Council held in Valencia was unanimous in four Points, and did not debate the fifth, which they left to be determined by the subsequent Councils of War.' Hereupon the Earl of Peterborough desired, that Mr. Stanhope's Letter might be read, which was done accordingly. It bore Date the same Day the Council was held ; and the most remarkable Passage in it, is, ' That he, the Lord Galway, and the Lord Ty- *Mr. Stanhope's*
rawley, had given their Opinions for an Offensive War, *Letter read.*
 and that King Charles's Ministers and the Earl of Peter-
 borough being of another Opinion, he had protested against it, in her Majesty's Name ; saying, ' That the Queen did not spend such vast Sums, and send such Numbers of Forces, to garrison Towns, but to make King Charles Master of the Spanish Monarchy : But he apprehended he had committed a Fault, in offering to protest in her Majesty's Name, against the Opinion of a Person of so superior a Character as the Earl of Peterborough.

After the reading of this Letter, the Lord North and Grey *Lord North and*
 said, ' That the Lords Galway and Tyrawley having been Grey,
 possessed with an Opinion that they were accused, they ought to be let know they were not.' The Lord Cowper added, *Lord Cowper.*
 ' That they ought to declare clearly and plainly, whether this was an Accusation, or no ; that the Reputation of Men of Honour was their Liberty and Property, that consequently, if this Enquiry tended to censure the Reputation of the Lords Galway and Tyrawley, by what Name soever it might be called, it was an Accusation ; and they might ask to have it in Writing, and ought to be allowed Time to make good their Answers ; adding, he did not speak so much in Favour of those two Gentlemen, as for the Honour of that illustrious Assembly.'

To this the Duke of Buckingham replied, ' That the Lord Duke of Buck-
 ingham. Tyrawley's Question was improper : That, if all who are
 summoned to the Bar of the House, in order to be examined, should ask the same Question, they could never proceed in any Enquiry, or come to the Knowledge of any thing : That the Lord Tyrawley was as cautious and reserved, as if he knew he was really accused. That the Friday before, he remembered nothing ; and now he wanted to know, whether he was accused, or no ? That the Lord Galway had acted fairly, like a Man of Honour ; That the Lord Tyraw-
 ley

Anne, 9 Anne,
1720-21. *by ought to do the same ; but if he refused, they could not force him to it : That the Reading of Letters was irregular, before they had examined him ; and that the Chairman ought to ask him, peremptorily, whether he would tell the Lords what he knew about the Council held at Valencia.*

Duke of Marlborough. *Thereupon the Duke of Marlborough moved, That the Lord Galway and Tyrawley, might be told, ' That they were not accused, and that the Council in Valencia was only to give Light into the subsequent Operations of the Campaign.'*

Earl of Rochester. *which the Earl of Rochester answered, ' That, tho' it had been alledged, that Reputation was as dear to them as Liberty and Property, yet the Lords ought not to tie their Hands, by telling them, whether they are accused, or no : And therefore moved, that the Chairman should ask the Lord Tyrawley to answer, if he pleased.'*

Earl of Peterborough. *The Lord Peterborough said, ' No Man can be accused for giving his Opinion in a Council of War.'*

After which, the Lord Galway and Tyrawley being called Question put to in again, the Earl of Abingdon told the latter, ' That the Lord the Lord Tyrawley, desired to be informed of what he knew about the Council of War which was held in Valencia.' Thereupon the Lord Tyrawley said, ' That, being apprehensive he might be accused, he thought he ought to be upon his Guard, but as he hoped that illustrious Assembly would not take Advantage of any thing he might say, he would frankly acquaint them with all he knew about the Council of War : That it is a hard Matter to charge one's Memory with things so far distant ; but that he remembered, in general, that several Schemes were proposed for the Operations of the ensuing Campaign : That an Offensive War was resolved upon by a Majority of Voices : That besides the Lord Galway, Mr. Stanhope, and himself, all the Portuguese, viz. the Marquis das Minas, Count d'Oropeza, the Conde de Corsana, and the Portuguese Ambassador, were of that Opinion : That the Operations of the Campaign were left to the Determination of subsequent Councils : That as to the Battle of Almanza, it was unanimously resolved upon, not one General opposing it ; and that Monsieur Freijman, who commanded the Dutch, and was very jealous of any thing that regarded the Service of his Masters, did not speak one Word against it.'

Earl of Nottingham.

Duke of Buckingham.

Lord Halifax.

The Earl of Nottingham having interrupted the Lord Tyrawley, telling him, ' He was not examined about the Battle of Almanza : The Duke of Buckingham said, ' No Lord ought to speak to the Lord Tyrawley, but the Chairman.' And the Lord Halifax added, ' That what he had said was very proper, the Battle of Almanza being a Consequence of the Council of War held at Valencia.' On the other hand

the Earl of Peterborough saying, ' That what the Lord Ty. ^{Anno 9 Anne,} ~~Marlborough~~ 1700-11. ~~newly~~ had said was to no purpose.' The Duke of Marlborough ~~saying,~~ ^{Earl of Peterbo-} ~~He had answered fully to the Question that~~ ^{rough.} was put to him.'

The Earl of Godolphin having desired that the Lord Tyrav-
ly might go on, he was called in again; and the Chairman rough.
telling him he might proceed, he answered, ' He had no Duke of Marib-
rough.
Earl of Godol-
shire to say.' However the Lord Cowper desiring he should phin.
be asked, Whether the March to Madrid was agreed in
that Council of War? And the Earl of Poulett, Whether in Earl of Poulett.
the same Council, an Offensive War was resolved upon?
The Chairman put those two Questions to my Lord Ty- Two Questions
rawley, who answered as before; ' That it was resolved put to Lord Ty-
to march to Madrid; but that the further Operations of the rawley.
Compaign were referred to the Determination of subsequent
Councils, after they had beaten the Enemy.' The Earl
of Peterborough desiring to know by whom those Resolu-
tions were taken, the Lord Tyravley answer'd; ' By the
Majority of several Councils of War, which were held twice
a Week; and that, as far as he could remember, the King
did not declare his Opinion.'

The Earl of Peterborough having afterwards desired Leave Earl of Peterbo-
to ask the Earl of Galway a Question, about his Negotiations rough.
ia *Italy*; the Lord Poulett said, No Questions were then to Earl of Poulett,
be put, but in relation to the Council of War held in *Valen-*
tia. The Earl of Abingdon having told the Lords Galway Earl of Abing-
and Tyravvley that they might withdraw, they withdrew ac- don.
cordingly; after which the Lord Cowper said, 'That all he Lord Cowper.
could collect from the Lord Tyravvley's Examination, was,
That the same Persons who were for an Offensive War, in
the Council held at *Valencia*, were very unanimous in the
Subsequent Councils, and concurred in the Execution of the
Operations agreed on.'

After this the Chairman ordered the Clerk to read several ^{Several Papers} Papers that lay upon the Table, particularly the following ^{read.} Letter from Mr. Stanhope to Mr. Secretary Hedges:

Valencia, Jan. 15, N. S. 1707.

SIR,

“ Since my last, of the 25th of December, we have received the ill News of the King of Portugal’s Death, and the Loss of Almeida. The same Ships brought us Letters from my Lord Rivers and Sir Cloudesly Shovel, acquainting us, they had taken the Resolution of bringing the Land-Forces to this Kingdom. Upon these Advices, and the Arrival of the Earl of Peterborough from Italy, several Conferences have been held on the Operations of the new Campaign. Inclosed

Ann. 9 Anne,
1710-11.

I send you the Opinions given by my Lord Galway, Sir Charles Hara, and myself, in writing, as the King had desired. What is mentioned therein of taking *Origuea* and *Murcia*, as soon as the Forces shall land, is agreed unanimously; as likewise to solicit either Succours, or a powerful Diversion from *Italy*; and also to engage, if possible, a Squadron to stay in these Seas. I am sorry it is doubtful whether this latter can be compassed, Sir Cloudesly Shovel having writ Word, that the Ships will return soon after the landing of the Troops; and if the Succours the French give out they are to have, (of which my Lord Peterborough will inform you more particularly) are really marching, a Squadron would be necessary to hinder them from hurting us in *Catalonia*; which would otherwise require more Troops for the Defence of it than we can spare, and leave ourselves a sufficient Force to go to *Madrid*. The main Part of our Votes, which relate to the Design of the Campaign, is not yet determined, there being many Opinions, that we should not think of *Madrid*, but act defensively, and in several Bodies. I have in most of my Letters, since I came hither, either to my Lord Treasurer, or you, expressed my Apprehension this would be aimed at; and therefore hope we shall soon be informed from you of her Majesty's Pleasure in this Particular: I have, perhaps, been guilty of a Fault in supporting my Opinion, which is the same with my Lord Galway's, too warmly at some of these Conferences, having said, that her Majesty did not spend such vast Sums, and send such Numbers of Forces to garrison Towns in *Catalonia* and *Valencia*, but to make King *Charles* Master of the Spanish Monarchy; and if it was insisted upon, to divide the Forces, and put ourselves on the Defensive, I should, in her Majesty's Name, protest against such Measures. The Fault I apprehend myself to have committed, was using the Expression of protesting in her Majesty's Name, in presence of my Lord Peterborough, who has Characters from her Majesty so much superior to mine, and from whom it was my Fortune to differ in Opinion, on this Occasion. His Lordship will have communicated to you, the Projects he has concerted with the Duke of *Savoy* and Prince *Eugene*, for the Execution of which a strong Squadron is necessary. If the Assistance of our Fleet can engage those Princes to march by Land to *Toulon*, it may, on that Condition, be worth our while to spare some Foot from hence, for the Execution of such a Design, as destroying their Naval Strength, tho' we should be reduced to act defensively here; for, let us take never so good Resolutions, I cannot help repeating my Apprehensions to you, that we shall do no great Matters while we have so many Generals so little disposed to

agree. Experience has so fully convinced me of my ~~Diss-~~ ^{Ambo} ~~of~~ ^{Ambo} ~~Ability~~ ^{1710-11.} to procure that good Understanding amongst ourselves, which is necessary for the Queen's Service, that I do, with the greatest Earnestness, renew my Application to you, that I may be recalled from a Station, in which I am perfectly useless to her Majesty, and am ruining myself, being forced to live at much larger Expence than my Allowance will bear. Your Favour in this Matter will be most thankfully acknowledged by him, who is, with the greatest Respect,

Your most humble, and

Most obedient Servant,

JAMES STANHOPE.

Then the Clerk read also a Letter from Sir *Charles Hanx*, (now Lord *Tyravuley*) to Mr. Secretary *Hedges*, of the same Date, *viz.* January 15, 1706-7. The Title of a Letter from the Earl of *Sunderland*, to General *Stanhope*, was also read; but his Lordship not being then in the House, the reading of that Letter was postponed, and the Opinion which Mr. *Stanhope* gave, in *French*, in the Council of War held in *Valencia* for an Offensive War.

Next to this the Clerk read the Opinion which the Earl of *Peterborough* delivered in writing at the said Council, being as follows:

‘ An Offensive War is of Shew, and Reputation to the Generals and Troops, but the Defensive is often of most Utility to the Public.

‘ Our Circumstances require vigorous Efforts in *Italy* or *Spain*. In the last, the Defensive secures us the Crown of *Aragon*, but the Troops in *Italy* can only give the mortal Blow, that is, enter *France*. Neither can it be doubted, if the *French* desist from their Hopes in *Italy*, but that the great Force in that Country will be usefully employed by the Duke of *Savoy* and Prince *Eugene*.

‘ No positive Opinions can be given, without knowing the Condition of the Fleet. Without the Assistance of the Sea, the best Dispositions in *Italy* are useless. If that were wanting, all must be hazarded in *Spain*, the War there being of an inconceivable Expence to the Allies, but the Difficulties of subsisting Armies in *Castile* are sufficiently apparent by the last Campaign: And the Dangers are evident of putting the whole upon the Risque of passing to *Madrid*, before an Army so superior in Cavalry.

‘ The *Tagus* must likewise be passed before the Enemy, (if marching by *Marcia*) without Pontoons, or the necessary Preparations for such an Attempt. The Precipices of that

Anno 9 Anaa, River are natural Fortifications: If there are Plains near
 1710-11. Aranjuas, it is almost equally impossible to pass them before
 an Army in Batalia, without a great Superiority in Artillery; and nothing is more easy to a Body of Horse so numerous, than to cut off the necessary Provisions, in a Country where they are so scarce.

‘ If the Troops advance into *Castile*, towards *Madrid*, without taking the necessary Precautions for the Defence of *Catalonia*, either *Madrid* must fall into our Power, or all is lost. It is to be doubted whether the Possession of *Madrid* (without the Defeat of the Enemy’s Army) be decisive; but the Loss of *Catalonia* is certain, if the Places there are not better fortified and provided, and if Forces are not sent into that Province or those Parts of *Arragon*, near that Frontier; which may serve at the same time for the Defence of the fortified Places of *Catalonia*, and towards preventing the Succours from the Side of *Navarre*.

‘ If we hope for a Maritime Force betimes in these Seas, which may be superior to the Enemy, there does not appear the least Necessity for rash Measures; and the least Disgrace, or great Fatigues alone, may give her Troops that Inclination to desert, which the Enemy will not fail to improve, when in a proper Situation.

‘ Above all things the Defence of *Catalonia*, and what we have, is necessary. Our Intelligences assure us, that great Numbers of Troops assemble in *Roussillon*, and that great Magazines are forming there for Foot and Horse, and all warlike Necessaries. But to conclude, what better Opinions can be offered than those of the Duke of *Savoy* and Prince *Eugene*? Who have doubtless communicated them to the Emperor, the Queen, and his Catholic Majesty, where that Duke has Ministers.’

Earl of Peter-
borough.

The Earl of *Peterborough* having desired that some of his own Letters might also be read, the Clerk began with one from his Lordship to the Duke of *Marlborough*, (whom the Earl said, he knew was not prejudiced against him) wherein amongst other Particulars, his Lordship said, ‘ He had overcome all his Enemies, but Lies, and these he had Papers enough with him to defeat. Another from the Earl of *Peterborough* to the Lord Treasurer, (or Earl of *Godolphin*) was read likewise, containing a Justification of his Lordship’s Conduct; exposing the rash and absurd Measures that had been pursued; and acquainting the Treasurer, that his (the Earl of *Peterborough*’s) Projects were approved by the Duke of *Savoy*, Prince *Eugene*, and Monsieur *de Belcastel*, though a Friend to the Lord *Galway*; adding, that whilst he had

the

he had the Honour to command in *Spain*, not one Party of Anno 9 Annæ, twenty Men were beaten, nor a Vessel lost. After this, the Clerk read the Earl of Sunderland's Letter to Mr. Stanhope, of the 14th of February, 1706-7, as also an Extract of King Charles's Orders to my Lord *Peterborough*, about an Attempt upon the Islands of *Majorca* and *Minorca*. Upon which the Earl of Paulett said, 'That the Earl of *Peterborough* had given Earl Paulett a fair and just Account.'

To corroborate what the Earl of *Peterborough* had said, Dr. Friend was called in: Whereupon the Duke of Devonshire moved, that he might be sworn. This occasioned a shire. Debate that lasted near an Hour, after which it was agreed that he should be sworn; which being done accordingly, he vouched for the Authenticity of the Papers inserted in his Account of the Earl of *Peterborough's* Conduct in *Spain*; the Copies whereof, he said, he had received, either from the Earl of *Peterborough*, or from his Lordship's Secretary. Then the Earl of *Abingdon* read the Question that had been given in by the Earl of *Ferrers*, *wiz.* Resolved, That the Earl of *Peterborough* has given a very faithful, just and honourable Account of the Councils of War in *Valencia*.

This Question occasion'd a Debate that lasted above an Hour, in which the most remarkable Passage was this: 'The Bishop of *Sarum* having excepted against the Word *Just*, because Bishop of *Salisbury* the Earl of *Galway* had declared he had some Remarks to make on the Earl of *Peterborough's* Recapitulation, but that he readily agreed to the Word *Honourable*. The Duke of *Argyle* took him up, saying, 'He knew no Difference between D. of *Argyle*, those two Expressions; for all that is Honourable must be Just, and all that is Just is Honourable.' At last, the Question being put about nine o'Clock at Night, the Lords divided, and Tellers being appointed, 59 were for the Affirmative, and 45 only for the Negative; and the House being rough's Account resumed, the Resolution of the Committee was reported, and voted just, &c. agreed to.

It was afterwards moved to adjourn to the Thursday following; but before it passed into a Resolution, the Earl of Paulett gave in the following Question to be debated in the next Committee of the whole House; 'That the Earl of *Galway*, Lord *Tyravley*, and General *Stanhope*, insisting at a Conference held at *Valencia*, some Time in January, 1706-7, in the Presence of the King of *Spain*, and the Queen's Name being used in Maintenance of their Opinion for an Offensive War, contrary to the King of *Spain's* Opinion, and that of all the General Officers and Public Ministers, except the Marquis *das Minas*; and the Opinion of the Earl of *Galway*, Lord *Tyravley*, and General *Stanhope* being pursued in the

Anno 9 Anne,
1710-11.

Operations of the following Campaign, was the unhappy Occasion of the Battle of *Almanza*, and one Cause of our Misfortunes in *Spain*, and of the Disappointment of the Duke of *Savoy's* Expedition before *Tboulon*, concerted with her Majesty.'

Earl of Whar-
ton.
Lord Halifax.

Second Debate
on the Affairs
of Spain.

Earl of Paulett.

D. of Bedford.

Marq. of Dor-
chester.

L. North and
Grey.

D. of Bucks.

The Earl of *Paulett* desiring that this Question should be entered in the Book, the same was opposed by the Earl of *Wharton* and the Lord *Hallifax*; but it was after a small Debate, agreed, That the same should be entered: After which the House adjourned to the Thursday following.

Accordingly, on the 11th of *January*, the Peers being set, three Letters from the Earl of *Sunderland* were delivered in, *wiz.* one to General *Stanhope*, of the 23d of *December*, 1706; another to the Earl of *Galway*, of the same Date; and the third to the said Earl, of the 27th of the same Month. The Order of the Day being read, an Officer was sent to know whether the Earl of *Galway* attended, and the House being informed he did not, the Earl of *Paulett* made a long Speech, wherein he represented, ' That the Nation having, for many Years, been engaged in an expensive War, it was necessary to give the People the Satisfaction to let them know how their Money had been spent, and who deserved Thanks, and who to be blamed; that it appeared, the Service of *Spain* had been very much neglected; that many Officers upon that Establishment looked on their Employments as *Simecures*, being Favourites of the Party; and that the Council held in *Valencia*, being the Spring of all our Misfortunes, the Lords ought to censure those that influenced it; concluding, that the Motion he made on the Tuesday before might be read.' Hereupon the Duke of *Bedford* delivered in a Petition of the Earl of *Galway*, which was read, importing, that, being informed that Matters which very much concerned him, were inserted in the Journals of the House, he prayed their Lordships to give him Time to put in his Answer, before they came to a Determination. The Marquis of *Dorchester* delivered also a Petition of the Lord *Tyrawley*, to the same Effect; which being read likewise, the Earl of *Orford* moved for adjourning, and appointing a Day to consider of these Petitions: To which the Lord *North* and *Grey* said, ' The Lords *Galway* and *Tyrawley* ought to have put in their Answers to the Earl of *Peterborough's* Paper, instead of presenting Petitions for Time, which looked like a Delay.' The Duke of *Buckingham* said on the same side, ' That it must be a Mistake that the Petitioners might think themselves accused, which could not be; for the Peers never accuse, but only give Orders to the Attorney-General to prosecute: That although every

every-body may have Access to their Journals, because they Anno 9 Anne,
are a Court of Record, yet no Inquest can take Notice of any

1710-11.

thing that passes, or is depending in the House ; that, at this rate, any body might put a Stop to their Proceedings ; that he did not, however, blame Men that were under the Apprehensions of being accused, for presenting such Petitions ; but that they ought to take no Notice of them, and proceed according to the Order of the Day, to the Consideration of the State of the Nation, in relation to the Affairs of Spain.'

To this the Duke of *Devonshire* answered, ' That as a Cen- Duke of Devon-
shire might ensue upon a Motion made the Tuesday before,

the Lords *Galway* and *Tyrawley* had Reason to petition for Time to make their Defence.' But the Earl of *Rochester* Earl of Roches-
ter replied, ' That he never heard of a Petition of that nature :

That the Petitioners desired, in effect, to be heard upon the Debate of the Lords, which was improper : That no body yet knew, or could tell, what the Question was ; but that after it was known, it might then be proper for them to put in their Petitions ; concluding, they ought not now to be re-

ceived.' Hereupon the Lord *Somers* said, ' That the Peti- Lord Somers.

tions were neither improper, nor given in at any improper Time ; that it would be too late for the Petitioners to apply to the Lords, after they were come to a Resolution ; that he hoped it would never be found in the Book of that House, that when the Lords were going to proceed to a Censure, they refused to hear those that were to be affected by it ; that the Lords *Galway* and *Tyrawley* had a Right to be heard, and clear the Matters of Facts as Subjects of *Great-Britain* ; that the Lords ought besides to be cautious, how they proceeded in Enquiries of Things done before the *Act of Oblivion and Indemnity* ; concluding, it was but a natural Justice, that Men in Danger of being censured, should have Time to justify themselves.'

To this the Duke of *Argyle* answered, ' That he did not know what Services it would do the petitioning Lords to have Time, and to tell the House that they differed from the House ; that it had already been put to them, whether they had any thing to say to that Point, and that two Days had been allowed them to answer the Earl of *Peterborough's* Recapitulation ; that, as to the *Act of Indemnity*, his Grace did not care how little Use was made of it ; that the said Indemnity binders not Enquiries ; that the People of *Great-Britain* ought to know to whom their Misfortunes are owing : But that, however, he desired no body should be punished.

Hereupon the Lord *Cowper* said, ' That the Debate about the Affairs of *Spain* was adjourned to that Day ; and therefore it was improper to take notice of the Earl of *Paulett's* Motion

Lord Cowper.

Anno 9 Anne, Motion in the House, but that it might be considered in the Committee; that as to the two Petitioners, it was reasonable and proper to grant them Time to put in their Answers, because the Question tended to censure them: which they did not know before, when they were only examined: And that in Things essential to Justice, the ordinary Forms of

*Earl of Notting-
ham.*

Courts of Judicature ought to be observed.' To this the Earl of *Nottingham* answered, ' That they could never be too tender of the Reputation of Men of Honour; but that, in his Opinion, the Petitions ought not to be granted; because this was no proper Time to deliver them, and because the Petitions themselves were improper; that the Act of Indemnity ought to be sacred, but not pressed too far; that the Petitioners had already been heard, and allowed Time to add any thing to their former Declarations; that now the Lords were not enquiring into Facts, but forming their Judgments upon them; and, that the admitting the Lords *Galway* and *Tyrawley* to take notice of what passed in the House, would be admitting them to a Co ordination with the Lords.'

E. of Wharton.

The Earl of *Wharton* replied, ' That a Censure is a Punishment; that to punish Men, without giving them an Opportunity to make their Defence, is equal to a Banishment; that he hoped the Subjects of *England* were not yet reduced to that; that this was the only Time the Petitioners could have to make this Application to the House; that the least thing the Lords could do, was to hear them, before Condemnation, since any other Criminals might claim that Privilege; concluding, he did not speak for the Sake of those two Lords, but for the Honour and Reputation of the House.' The Earl of *Nottingham* answered, ' He did not say they could never be heard, for they might be heard, if the House should order a Prosecution, but only that they could not be heard on this Occasion. That they might be as innocent as any of the Lords, because they might have given their Opinion according to the best of their Understandings, or might have been over-ruled: Which might be afterwards enquired into.'

*Earl of Notting-
ham.*

The Duke of *Buckingham*, who spoke on the same Side, said, ' That he had a great Respect for those two noble Lords who petitioned; and was as tender of the Honour and Reputation of the House, as any Member: That therefore he was afraid of making Precedents, and altering parliamentary Rules: That, according to the Forms of inferior Courts, no Man has a Right to be heard, or to stop Proceedings on Account of his Reputation, as on Account of his Property; that he was apt to believe, that some Persons, who did not like this Enquiry, had put those two Lords upon petitioning, to gain

Time;

Time ; but, tho' he would not have the Petitions granted, Anno 9 Anne, yet he would move, that they might be called in, and heard.' 1710-11.

Hereupon the Earl of Paulett said, ' That they had already been heard, and had declared they had no more to say : Earl Poulett.

So that the Design of these Petitions was only to delay.'

But the Duke of Shrewsbury said, ' That if they were ready Duke of Shrewsbury. to be heard, he consented they shold, provided they delivered nothing in Writing, which might occasion Delays.'

The Earl of Godolphin, in Answer to what had been urged by the Earl of Paulett, said, ' It was true, they had been heard before ; but that there was new Matter, and an Im-

putation, wherefore it would be hard upon them not to be heard.' Earl of Godol-

phin,

To this the Earl of Ferrers answered, ' That the Earl of Ferrers.

Question contained only a Proposition to censure a Council ;

that their Lordships were yet come to no Resolution upon it ; and, as a Petition to a Debate of the House was never

offered before, he thought it unreasonable to grant these.

That, as they must not judge by Success, so the declaring

that the Lords Galway and Tyrawley had given an ill Coun-

sil, was no Censure.' On the other hand, the Lord L. Hallifax.

Hallifax said, ' That, out of an Affectation of avoiding Delays,

and of not going fast enough, they went so fast, that they must come back.

That the Petitioners had, indeed, been examined, but were not heard to the Question proposed by

the Earl of Peterborough ; and that the Lord Tyrawley was even interrupted when he began to speak of the Battle of

Almanza. Pray, my Lords, added he, proceed according

o the Rules of Justice. When Sir George Rooke was called

a Question, he was heard for three Days together. What,

will you not hear these two Lords, before you pass a Re-

solution that touches their Reputation ? For my Part,

then I hear these Arguments, I could stop my Hearing.

The Earl of Paulett saying thereupon, ' That if they were ready to be heard, he readily agreed they should.' The

Lord Hallifax insisted, ' That their Demand ought to be Lord Hallifax.

ranted ; ' urging besides, ' That the very Paper upon which

the whole Debate turned, was not yet read.' To this the

Earl of Marr answered, ' He did not wonder some Persons Earl of Marr.

endeavoured to shuffle and prolong the Debate ; but if they

ranted these Petitions, they might afterwards be desired to

ostpone this Enquiry, till Mr. Stanhope could be heard.'

The Duke of Argyle added, ' That he had, himself, asked Duke of Argyle.

the Petitioners, whether it had been resolved to act offen-

sively, to which they had given their Answers in the Affir-

ative ; which was the material Point in Question.' The

Duke of Devonshire insisted, That, as the Result of these Duke of Devon-

shires might be put in a Representation to the Queen, the shire

Peti-

Aano 9 Anne, Petitioners ought to have an Opportunity to be heard.' To
 1710-11. which the Duke of *Buckingham* answered, 'That if they
 debated that Matter any longer, it would be the same as if
 Duke of Bucks. they granted their Petitions.' Nevertheless, the Lord *Guernsey*,
 Lord *Guernsey*, speaking on the same, said, 'That, if the Question for
 rejecting the Petition, was put, and carried, they might then
 be heard to Matter of Fact; but, as to Matter of Opinion,
 they could not be heard; and so concluded, that the Question,
 to reject the Petition, be put in the House, and the
 Lord *Paulett's* Question afterwards debated in the Commit-
 tee.' The Earl of *Scarborough* said, 'That, if the Petitioners
 Earl of Scarborough. were to be heard again, he wished they might be upon
 Earl of Paulett. Oath.' And the Earl of *Paulett* added, 'He hoped they
 Duke of Leeds. should hear no more of the Act of Indemnity in this De-
 bate.' The Duke of *Leeds* said, 'He thought the Petitions
 irregular, however, he moved, that they might be laid on
 the Table, and taken no Notice of.' Which Motion was
 backed by the Lord *North and Grey*. But the Duke of
 Duke of Bucks. *Buckingham* insisted, 'That the Petitions being irregular,
 the Question for rejecting them ought to be put; and if
 carried, such Lords as pleased might enter their Protests:
 Duke of Leeds. Upon which the Duke of *Leeds* said, 'He should be sorry
 Lord Keeper. to see Protestations made on that Occasion.' The Lord
 Keeper having, at last, put the Question, Whether the Pe-
 titions should be rejected? it was carried in the Affirmative,
 by a Majority of 57 Voices, against 46, that were for the
 E. of Abingdon. Negative. Hereupon the Earl of *Abingdon* said, 'He sup-
 posed, any body that presented Petitions, attended to know
 D. of Shrews- whether they were granted, or rejected:' And the Duke
 bury. of *Shrewsbury* moving, 'That they should be called in,' the
 D. of Argyle. Duke of *Argyle* said, 'He took it for granted, that the Pe-
 titioners were out of the way, and not to be found; and there-
 fore moved, that the Committee might proceed.' An Offi-
 Earl of Paulett. cier having informed the Lords, that the Petitioners were
 not at the Door; the Earl of *Paulett* said, 'All this looked
 like a Delay.' And the Earl of *Ferrers* moving, that a
 Duke of Bucks. Message might be sent to them, the Duke of *Buckingham*
 moved, for adjourning the House, during Pleasure, in order
 to consider the Earl of *Paulett's* Question in a Committee of
 the whole House, into which the Lords went immediately,
 and of which the Earl of *Abingdon* was chosen Chairman.
 Earl of Peter- The Earl of *Peterborough* opened the Debate with saying,
 borough. 'That, having the Queen's Orders to be gone, he hoped
 Duke of Bucks. the Lords would give him an Opportunity to clear some
 State.' — But the Duke of *Buckingham* said, the Question
 ought to be read, in the first place: Whereupon the Earl of
 Abingdon

Abingdon read the Earl of Paulett's Motion before mentioned. Anno 9 Anne, 1710-11.
 Then the Earl of Peterborough acquainted the Lords, ' That his going out of Spain for Italy, was in order to concert Measures for the Siege of Toulon, according to his Instructions: Being empowered to treat and negotiate with the Duke of Savoy, particularly about the Siege; of which he had given an Account in Writing: That he had several Conferences with the Duke of Savoy and Prince Eugene, in his Royal Highness's Closet, the Result of which he sent to the Court of England, and to the King of Spain. That he had afterwards several Conferences with my Lord Galway and Mr. Stanhope, to concert further Measures for the carrying on the Projects made in Italy: But, tho' he had acted according to his Instructions, he was, in a Letter from the Earl of Sunderland, dated the 28th of September, 1706. O.S. recalled, for negotiating Matters of so high a Nature, without the Queen's Authority, which might be prejudicial to her Majesty's Service.'— Hereupon the Earl of Rochester Earl of Rochest-
 id, ' That the Earl of Peterborough ought to apply himself to the Matter in question; and moved that the said Question might be read again; which the Chairman did: After which the Earl of Peterborough said, ' He apprehended their Lord- Earl of Peter-
 ships would enquire into the Disappointment before Toulon, borough.
 in order to which he thought it very proper to acquaint them, that five thousand Men, which he demanded for the reduction of that Place, were denied him, to be employed about imaginary Conquests. And, that he received the Banks of King Charles, for the Projects he had concerted in Italy; but a public Minister desired, he might not be used.' The Duke of Argyle desiring that the Earl of Pe Duke of Argyle.
 rborough's Papers might be read; that, in particular, which showed, that the Duke of Savoy insisted, that there might be a defensive Campaign in Spain; while the Earl of Peterborough was looking for that Paragraph, in his own French Letter to Sir Charles Hedges, dated September the 10th, 1706.
 The Earl of Godolphin moved, ' That the whole Letter might be read: ' Whereupon the Letter was delivered to the Clerk; the Earl of Peterborough taking it from him, read it himself; and the most remarkable Expressions in it, relating to the Question, were these: *La prise de Toulon me paroit praticable— On demande 5000 hommes des troupes d' Espagne;* it is, The taking Toulon appears practicable to me; 5000 men of the Troops in Spain are demanded for that Purpose.
 The Earl of Godolphin insisted, ' That if any Stress was to be laid upon this Letter, the same might be translated and read by the Clerk.' Notwithstanding which, the Earl of Peterborough continued reading; after which the Lord Cowper. 1710-11.

Anno 9 Anno, ^{1710-11.} per backed the Earl of Godolphin's Motion, saying, ' He could not understand the Letter as the Earl of Peterborough read it : And how could their Lordships proceed to a Censure, without having a material Paper in the Language of the Country ? ' To this the Earl Peterborough said, ' That it being thought fit not to entrust any Secretary with his Project, he wrote that Letter himself to Mr. Secretary Hedges ; and that he could not write it in any other Language, to be understood by the Duke of Savoy, and Prince Eugene, who kept both a Copy of it, as well as himself : But if their Lordships desired to have it translated, he moved they might adjourn, for he was no Secretary to translate it himself.' The

Earl of Abingdon. Earl of Abingdon owned, the latter was not read regularly : Earl Paulett. But the Earl of Paulett waving that Matter, said, ' The French could not have relieved *Thoulon*, if the War in Spain had been defensive.' And the Duke of Argyle added, ' That the Strels of the Question was, Whether the Duke of Savoy insisted upon a Defensive War in Spain.

Earl of Peterborough. The Earl of Peterborough averring, that he insisted so firmly upon it, that he desired to have 5000 Men out of Spain : The Duke of Marlborough acquainted the Lords, ' That the Project of an Attempt upon *Thoulon* was first proposed to the Duke of Savoy, by Mr. Hill, in the Year 1703, and afterwards negotiated there by his Grace himself with his Royal Highness's Ministers, Count Briançon, and Count Maffey ; that 5000*l.* were, at first, offered to the Duke of Savoy, for that Purpose ; but it was, at last, agreed, that he should have 10000*l.* That the Year before the Execution of this Design, the Duke of Savoy earnestly desired, that it might be kept very secret ; so that it was very improbable he should speak of it to any body, and desire 5000 Men out of Spain for that Purpose : ' Concluding, ' That the Attempt upon *Thoulon* did not miscarry for want of Men, since there were near 17000 left behind in *Italy* ; but for want of Time, and other Accidents.' Notwithstanding this, the Earl of Peterborough affirmed, ' That, according to his Instructions, he had concerted with the Duke of Savoy the Attempt upon *Thoulon*.' Whereupon the Earl of Paulett said, ' That in such a Case, 5000 Men out of Spain might have made a strong Diversion, and contributed to the Reduction of that Place.' After this, the Clerk read a Letter from the Lord Godolphin to the Lord Peterborough, dated February the 7th, 1708-9, importing, in Substance, ' That Care had been taken of all his Bills ; that they were all (upon which the Earl of Peterborough cried, ' Protested !) satisfied, that the War in *Catalonia* ought to be Offensive ; and that this was the particular Desire of Prince Eugene, which ought to be complied with.'

Earl of Peterborough.

Earl of Paulett.

The

'The Earl of Peterborough having often mentioned his Instructions for treating about the Siege of Thoulon, the Lord North and Grey moved that those Instructions might be produced. But the Earl of Rochester alledging, this could not be done, without the Queen's Leave, the Lord North and Grey replied. ' They might present an Address to the Queen for that purpose.' This being waved by the Duke of Buckingham, the Lord North and Grey acquiesced: Tho' tis remarkable, that the Earl of Peterborough said, ' That Mr. Secretary Hedges might be ordered to attend, and be examined about that Matter.' And thereupon the Lord Halifax desired, that the Lord Peterborough's Letter to Mr. Secretary Hedges might be left upon the Table: Adding, ' That since the Duke of Savoy was for an Offensive War in 1706, he wondered how it could be a Crime in 1707.' To this the Earl of Nottingham answered, ' That the Earl of Peterborough's Letter ought not to be left on the Table, unless he pleased. That no Inference could be more unnatural, than to say, that because the Duke of Savoy was for an Offensive War in 1706, he must be of the same Opinion in 1707. That what the Duke of Marlborough had said about the Overture made to the Duke of Savoy, for an Attempt upon Thoulon in 1703, was very true, he (the said Earl of Nottingham) having written himself to Mr. Hill about it; that it appeared by General Stanhope's Letter, that he was for an Offensive War, unless some Attempt upon France made it necessary to be on the Defensive: Which implied, that he knew the Design upon Thoulon; and that the Duke of Savoy wanted Troops, appeared by his waiting for the German Recruits.' The Lord Cowper insisting upon the Necessity of having the Earl of Peterborough's original Instructions: The Chairman put him in mind of what already had been suggested, ' That there might be some Secrets in them, not proper to be made publick.' To which the Lord Cowper replied, ' That the Argument upon a Probability, when there might be a Certainty, shewed the Necessity of calling, at least for such Part of the said Instructions as related to this Matter;' urging, ' That Thoulon might be mentioned in them; but it was material to know in what manner it was mentioned.' In Answer to this, the Duke of Argyle said, ' That even supposing no mention was made of Thoulon in the Earl of Peterborough's Instructions, yet it appeared very plainly, that he had concerted that Project, from his Letter to Mr. Secretary Hedges, from Mr. Stanhope's Letter, and from the Earl of Galway's Confession.' The Earl of Scarsdale complaining of the Delays, and of some Lords insisting on the same Thing; the Lord Hallifax answered, ' He designed to make all Delay necessary.

1710-11. Anno 9 Anne,

Lord North and Grey Earl of Rochester.

Duke of Buckingham. Earl of Peterborough.

Lord Hallifax.

Earl of Nottingham.

Lord Cowper.

E. of Abingdon.

Lord Cowper.

D. of Argyle.

Earl of Scarsdale.

Anno 9 Anne, sary to get a right Information : Urging, ' That the Earl of Peterborough had desired that Secretary Hedges be called and examined.' The Earl of Peterborough explained what Earl of Peterbo- he had said about Sir Charles Hedges, averring, he only men- rough.

Lord Halifax. French But nevertheless, the Lord Halifax insisted on the Necessity of having the Earl's Instructions laid before them: alledging. ' That since new Papers were daily produced towards this Enquiry, why not these Instructions, which were

Earl of Rochef- as material as any of the rest ?' The Earl of Rochester waved ter. this Objection, saying, ' There was no Necessity to have those Instructions, since they would be of no Use, for it ap-

Duke of Buck- peared already very plainly that the Design upon Thoulon ingham. was known.' The Duke of Buckingham, the Earl of Not-

tingham, and the Earl of Isla spoke on the same side; and at Earl of Notting- last, between eight and nine in the Evening, the Earl of Pau-

ham. Earl of Isla. llett's main Question, about the Earl of Galway, Lord Tyrav- Division on the ley, and Mr. Stanhope being put, it was carried in the Affir-

Question. mative, by a Majority of 64 Voices against 43; after which the Lords adjourned to the next Day.

Third memora- On Friday, the 12th of January, the Lords being set, a ble Debate on List of the Generals and Officers on the Establishment of the War in Spain, which, by their Lordships Order, had been laid before them, was found Fault with, because the Lieutenants and Ensigns were not mentioned in it, and another List was ordered to be laid before the House. Then several Papers were read, particularly the following Letter from the Earl of Sunderland to my Lord Galway.

My Lord,

' This is to acknowledge the Receipt of your Lordship's Letter by Mr. Stanhope from Valencia, of October the 29th, N S. together with a Copy of your Letter to the Lord Rivers, of the same Date. And to acquaint you, that her Majesty does approve of the Resolution of my Lord Rivers landing his Forces in Valencia, and that she has sent him Directions to go forthwith, in Compliance with the Desires of the King of Spain, and your Lordship, notwithstanding any Orders he may receive from thence to the contrary, (such having been sent some time.) I am commanded also, by her Majesty, to acquaint your Lordships, how concerned she is at the Uneasiness you are under in the Service, which makes you desire so much to retire; which Request her Majesty would not deny, but that she is of Opinion, that, besides what relates to the Command of her own Troops, and an Influence that is necessary to be had upon the King of Spain, there is no body but your Lordship that can possibly, in any sort, manage the

Por-

Portuguese; so that, if you shall retire, that Alliance will be quite useless, and consequently the whole Affair of *Spain* irretrievable. I am confident, when you reflect upon this, you have her Majesty's Service, and the common Cause so much at heart, that you will have Patience, at least one Campaign more; and your Lordship may depend upon it, that there is nothing in the Queen's Power to do, to make you as easy as possible, and to remove the Difficulties you have hitherto struggled with, that will not be done. You will see by her Majesty's Letter to the King of *Spain*, how much she takes this to heart, and how strongly she insists upon his having an entire Confidence in your Councils and Advice.

Anno 9 Anne,
1710-11.

I will not say any more upon this Subject: You will have it so much more strongly represented to you by my Lord Treasurer in his Letter, and by Monsieur *de Montandre*, when you see him. I must also acquaint you, that the Queen has ordered my Lord *Peterborough*'s Commission of Ambassador to be recalled, which, I hope, will contribute to make all that Matter more easy. Since his Majesty is willing to consent that the Troops with the Lord *Rivers* should join the King of *Spain* and the Troops in *Valencia*, it is expected they should be kept all together in one Corps, and under one General, that they may march strait to *Madrid*, without dividing themselves, or amusing themselves in taking incon siderable Places, and such little Projects; the doing of which before, was one great Reason that this last Campaign you was not joined by any Body of Troops sufficient to keep you in possession of *Madrid*. This makes it yet more necessary for your Lordship to stay: I am sure no body but yourself will have Influence, or Credit enough to keep them together; and to enable you the better to do this, the most effectual Measures will be taken to persuade the *Portuguese* to make the Diversion they have promised by the way of *Toledo*; and in order to it, they will be assured, that the Troops from *Ireland* that were to follow the Lord *Rivers*, shall be sent as soon as possible to join them, and enter *Spain* that Way. I must also acquaint you, that such Measures are taking with the Duke of *Savoy*, for the next Year's Campaign, as will effectually prevent the *French* sending any considerable Force more into *Spain*. I send you here inclosed a Copy of Monsieur *Cavalier*'s Letter to the Queen; if you think what he proposes practicable, and that the Circumstances of Affairs do allow it, her Majesty thinks it would be of great Advantage to the common Cause; but that must be left to your Judgment. I gave you an Account in my last, that all the Cloathing was gone from hence, except that of eight Batallions. As for the six Regiments, whose Officers

Amo 9 Anne, Officers are to be sent home to raise their Men, it is her
 1710-11. Majesty's Pleasure, that the Cloathing of the said Regi-
 ments be sent back, and that your Lordship would order an
 Account of the Off-reckonings to be sent hither. I am,
 with great Truth,

My Lord,
 Your Lordship's most humble,
 And most obedient Servant,
 S U N D E R L A N D .

E. of Scarfdale's Question. The Clerk having done reading, the Earl of Scarfdale proposed the following Question : ' That it appears by the Earl of Sunderland's Letter to Mr. Stanhope, that the Design of an Offensive War in Spain, was approved and directed by the Cabinet-Council, notwithstanding the Opinion of General Stanhope, in case of an Attempt upon France, which they knew was then concerted with the Duke of Savoy; which contributed to our Misfortunes in Spain, and to the Disappointment before Thoulon.'

Resolution thereon. After a small Debate, it was resolved to present an humble Address to the Queen, ' That she would be pleased to give Leave to any Lord, or other, of her Cabinet-Council, to communicate to the House, any Paper or Letter relating to the Affairs of Spain.' This Address, by their Lordships Order, was immediately carried up to the Queen at St. James's, by the Lords of the White-Staves, viz. the Dukes of Buckingham and Sbrewsbury: Who being returned, and the House (that had adjourned during Pleasure) resumed, as soon as the Queen, who designed to hear the Debate incognito, was come to the House, the Duke of Buckingham reported, ' That her Majesty had graciously been pleased to grant the Desire of the Lords.'

E. of Scarfdale's second Question. The Lords being gone into a Committee of the whole House, and the Earl of Abingdon still in the Chair, the Earl of Scarfdale delivered the following Question, ' That it appears by the Earl of Sunderland's Letter, that the carrying on the War Offensively in Spain, was approved and directed by the Ministers, notwithstanding the Design of attempting Thoulon, which the Ministers knew at that Time was concerted with the Duke of Savoy, and therefore are justly to be blamed for contributing to all our Misfortunes in Spain, and to the Disappointment of the Expedition against Thoulon.'

Debate thereon. The Lord in the Chair having read this Question, the Duke of Devonshire excepted against the Alteration that had been made in it, particularly against changing the Word of Cabinet Council, which was in the Question first proposed by the

the Earl of Scarfdale, into that of *Ministers*. To which ^{Answer of Abingdon, 1710-11.} the Lord Ferrers answered, ' That the Earl of Scarfdale was at Liberty to make what Alterations he thought fit in the Question, this being a new Committee ; ' and the Earl of Scarfdale added, ' He thought fit to alter the Question, because the Word *Ministers* is better known than that of a *Cabinet Council*.' But the Earl of Wharton insisted, ' That Earl of Wharton. the Committee was, in effect, the same, as when the first ten Question was proposed, and as they were adjourned to consider it, no Alteration of a Question that lay already before them, ought to be admitted.'

This Objection, which seemed to carry a great deal of Weight, was, however, removed by the Earl of *Abingdon*, E. of *Abingdon*, who said, ' This was the same Committee ; for the House was resumed, and then adjourned during Pleasure, before he could get Directions to report.' And the Earl of *Paulet* ^{Earl Paulet.} having moved the debating of the second Question, the Duke of *Beaufort* said, ' He wondered any Lord in the Ministry Duke. of Beau-should approve and direct an Offensive War in *Spain*, at that fort. Juncture : And in particular named the Earl of *Sunderland*.'

Hereupon the Lord Cowper, in answer to what had been alledged by the Earl of Scarfdale, to justify the Alterations made by his Lordship in the Question, said, ' That in his Opinion the Word *Minister* or *Ministry*, would run into the same Exception with *Cabinet Council* ; that they were both Terms of an uncertain Signification, that there was besides in the Question the Word *Ministers* in the plural, which implied many : And therefore he moved, that the Earl of *Sunderland*'s Letter might be read, that it might appear, whether one Minister only, or more, approved and directed an Offensive War.' There being several Letters of the Earl of *Sunderland*'s lying on the Table, the Chairman of the Committee desired to know, which of them their Lordships would have read ? To which it was answered, ' That of *February 14th, 1706-7. O. S.* in answer to Mr. *Stanhope*'s Letter of the 15th of *January, N. S.*' Upon which the Clerk was directed to read that Letter, importing in Substance, ' That he was sorry they three only (meaning the Lords *Galway* and *Tyravley*, and Mr. *Stanhope*) were of that Opinion ; that nothing but Interest could incline others to the contrary ; that the dividing the Army would be the Ruin of all ; that the Queen entirely approved what he (Mr. *Stanhope*) had done in the Council of War, as he would see more at large in the Inclosed from my Lord Treasurer. That this was so much the Queen's Opinion, that she had written in the most pressing Terms to King *Charles* about it. That, as for the Earl of *Peterborough*'s Projects in *Italy*, the less

Anno 9 Anne, 1710-11. less Attention Mr. Stanhope gave to them the better. That he sent him a Letter for the Earl Rivers, which he desired Mr. Stanhope to deliver to him, if he took upon him the Command of the Army, by the Lord Galkay's giving it up. Which, however, the Earl of Sunderland hoped, he would not do: In which last Case Mr. Stanhope was desired to burn that Letter: Concluding, that the Lord Treasurer had settled the Remittances for the Army, &c.'

Lord Cowper. After the reading of this Letter, the Lord Cowper said, ' He could not find a Connection between the Premises (viz. the said Letter) and the Inference in the Question: And therefore, if it should pass into a Resolution, he would enter his Protest.' To which the Earl of Rochester replied, with some Vehemence, ' That after the Message that had been sent to the Queen, and her Majesty's gracious Answer, he did not expect to hear of such an Objection; as that there was no Connection between the Premises and the Inference; that he knew very well the Meaning of that Objection; that for several Years past they had been told, that the Queen was to answer for every thing; but he hoped that Time was over; that according to the fundamental Constitution of this Kingdom, the Ministers are accountable for all: And therefore he hoped no body would, —— nay, no body durst, name the Queen in this Debate.' On the other hand, the Lord Cowper insisted, ' That the Alteration made in the Question ought to be explained; ' urging, ' That the Word *Ministers* is of an uncertain Signification, and *Cabinet Council* a Word unknown in our Law: That if that august Assembly proceeded to a Censure upon Men, the World ought to know who they were: That he hoped the Lord who proposed this Question, would explain himself; and hoped, at the same time, that if any body were accused, it would appear to be without Ground: That he had the Honour to be one of the Ministry, and did not know whether it was designed to involve him in the same Censure; but he protested, with the utmost Sincerity, that while he was in that Post, he gave his Advice, and acted to the best of his Understanding, and with an honest Intention to serve the Queen and his Country.'

E. of Scarsdale. After this, the Earl of Scarsdale said, ' He thought the Word *Ministers* very proper; and that the Lord Treasurer, that is, the Lord Godolphin, was named in the Earl of Sunderland's Letter.' The Earl of Paulet urged, ' That there's no Distinction between the Ministry and the Cabinet Council; for those who were of the Cabinet were Ministers.' But tho' the Duke of Beaufort spoke on the same side, his Grace said, ' That the Word *Cabinet Council* does not imply all Ministers.' And the Lord Ferrers added, ' That the Word

Lord Ferrers.

Ministry is more copious than *Cabinet Council*, but however, ^{Anne & Anne,} 1709-11. it was indifferent which they took.' To this the Earl of Godolphin replied, ' That since the Word *Ministers* was more copious, it was therefore improper in this Case, because their Lordships ought to be sure whom they designed to censure. And then taking notice, how late it was in the Night, and that a Person concerned in this Debate was absent, he moved for adjourning.'

Hereupon the Duke of *Leeds* made a pretty long Speech; ^{Duke of Leeds.} the most material Passage in which was, ' That her Majesty having given Leave for any Lord, or other of the Cabinet Council, to communicate what they knew about the Affairs of Spain, no Offence could be taken if any Person cleared himself.' Upon which the Lord *Cowper* said, ' He knew not Lord *Cowper*. whether he was included in the Word *Ministry*.' Hereupon the Earl of *Paulet* said, ' This was the first time that this ^{Earl of Paulet.} nice Distinction between *Cabinet Council* and *Ministry* was made a Dispute, which looked like a Delay.' And the Earl of *Shaftesbury* said, on the same Side, ' That it was irregular and ^{Earl of Shaftesbury.} improper to take Notice, in this Debate, either of the Address to the Queen, or of the Question proposed before, in both which the Word *Cabinet Council* was inserted; that it was true, this Word was not commonly known in the Law, either was the Word *Ministry*, and therefore they ought to use a plain *English* Word. That he could mention an Instance at the Revolution, when a * Word of an uncertain Signification occasioned much Debate. That he wished, if the Question should pass with the Word *Ministers*, they would mention two Lords that had been already named —— that he should be sorry to hear, or repeat the Sound —— but, however, he thought it necessary to name them.' To this the Lord *Hallifax* answered, ' That the mentioning the Address and former Question, was not improper; that they were using the Signification of two synonymous Words of great Weight and Importance in this Case; and therefore he desired, that the Address to the Queen might be read.' This being done accordingly, his Lordship added, ' He wondered the Method used on this Occasion: For he understood the Queen was desired to give an immediate Answer to this Address; with an Intimation, That the House was sitting, excepting her Majesty's Answer, which was not usual.' Hereon the Duke of *Argyle* said, ' He thought what the noble ^{Duke of Argyle.} Lord that spoke last had laid, was accusing the House of being an Uncivility to the Queen.' At which several Lords rising, *Go on! Go on!* —— the Lord *Hallifax* said, ^{Lord Hallifax.} ' That if their Lordships looked on their Journals, they would not find it usual.'

1710-11.

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The

* Meaning the Word *ASPERGE*.

Anno 9 Anne,
1710-11.

E. of Paulett.
Duke of Bucks.

Lord Hallifax.

Earl of Ferrers.

Earl of Peterbo-
rough.

Lord Hallifax.

Earl of Rocheſ-
ter.

Duke of Argyle.

Lord Cowper.

The Earl of Paulett appealing to the Lords, ' Whether the Words *immediate Answer* were ever mentioned ? ' The Duke of Buckingham said, ' He never heard any such thing spoken ; and if he had, he would rather have gone to the Tower than have carried such a Message.' Upon which the Lord Hallifax excused what he had said, alledging, ' He was not in the House when the Address was sent, but had been told, that a Motion for an *immediate Answer* was made ; which he believed was without a Precedent.' To this the Earl of Ferrers answered, ' That no such thing had been mentioned, but if it had, it would not have been unusual ; for he remembered such a Message was sent to the late King *William*, when he lay sick. That they had been long debating about the Words *Ministers* and *Cabinet Council* ; and that, to prevent all Exceptions, both might be put in the Question.' Hereupon the Earl of Peterborough said, very shrewdly, ' That he thought the Word *Cabinet Council* not so proper as *Ministers* : — That he had heard a Distinction between the *Cabinet Council* and the *Privy Council* ; that the *Privy Councillors* were such as were thought to know every thing, and knew nothing ; and those of the *Cabinet Council* thought no body knew any thing but themselves : And that the same Distinction might, in great measure, hold, as to *Ministers* and *Cabinet Council*. That the Word *Cabinet Council* was, indeed, too copious ; for they disposed of all ; they fingered the Money ; they meddled with the War ; they meddled with Things they did not understand : So that, sometimes, there was no *Minister* in the *Cabinet Council*.' The Lord Hallifax insisting against the Alteration made in the first Question, and pressing their Lordships to speak to the same Words they had used in their Address to the Queen. The Earl of Rochester renewed his former Expostulation, ' That, for several Years together, the Queen was to answer for every thing ; instancing in the Time when the Memorial of the Church of *England* was indicted, and the Church was suggested to be in Danger, (which for his Part, his Lordship thought to be so, in the Hands of some Men) when the Answer was ready, to stop People's Mouths, What to suspect the Queen ! ' He added, ' That the Distinction between *Cabinet Council* and *Ministers*, was a mere Nicety used only to delay. That he knew the Lord Godolphin was in that high Station.' And concluded with a Motion, ' That the Lords would give an Account of what they knew, provided they would speak to the Point in Question, and not to a Nicety.' The Duke of Argyle said, ' He thought all *Ministers* were of the *Cabinet Council*, but that all the *Cabinet Council* were not *Ministers*.' The Lord Cowper urged ' the Ambiguity

Ambiguity of those two Terms, as an Argument against Anno 9 Anne,
using them ; the rather, because of four of the Lords that 1710-11.
were for the Question, two were of one Opinion, and two of
another. That, however, he hoped they would drop this,
and debate the main Question. That for his own Part, he
was of Opinion, that the War in *Spain* ought to be Offensive
and not Defensive. That this was the Sense of the whole
Kingdom. That he did not remember, that, when the Earl
of Peterborough's Letter to Sir *Charles Hedges*, about his
Lordship's Projects, was read, there was any Difference of
Opinion in the Council : All being unanimous for an Offen-
sive War with *Spain*. That when the Project against *Thou-
lon* was concerted with the Duke of *Savoy*, his Royal High-
ness never desired that the War might be Defensive in that
Kingdom. That it was unreasonable and unprecedented to
censure Men for an Opinion, because it had proved unsuc-
cessful ; and that, for his own Part, he gave his Advice with
the best and most sincere Intentions to serve his Country.'

To this the Earl of Peterborough answered, ' That one Earl of Peterbo-
rough would be apt to think the Ministry were, indeed, for a De-
fensive War, when they suffered him to want Men, Money,
and all Necessaries. That tho' he had Instructions to treat
about the Siege of *Thoulon*, he had Letters of Revocation sent
him on a sudden ; which, however, he sent back unopened,
because having appeared, in several Courts, with the Character
of Ambassador Plenipotentiary, and the Duke of *Berwick*
having taken his Credentials, he could not give Re-cre-
dentials. That his Project, as trifling as it was accounted by
the Ministry, would have taken *Thoulon*, whereas the regu-
lar Project proved abortive. That when he came home, he
was coldly received and disregarded, but preserved himself,
not only by his Integrity and little Services, but also by
Caution and Patience.' After this, his Lordship explained
his Project upon *Naples*, which was to have been put in Ex-
ecution in February : Adding, ' That by the Reduction of
that Kingdom, which was already disposed to declare for
King *Charles*, and by the Conquest of *Sicily*, the Allies would
have had 20,000 Men to act against *France*, and Plenty of
Provisions to supply their Forces in *Spain*. As for *Thoulon*,
that it might have been invested in the Winter, when there
was no Garrison to defend it.' And to prove that he had
concerted the Siege of that Place with the Duke of *Savoy*,
his Lordship produced a Letter from his Royal Highness ;
but offering to read it, several Lords cried, No, no. In an-
swer to the Earl of Peterborough's Speech, the Earl of *Godol-* Earl of Godol-
phin said, ' He would give their Lordships an Account of *phin*.
his Thoughts and Reasons, why that noble Earl's Project
was

Anno 9 Anne,
1710-11.

was not approved, *viz.* That the very Overtures of it, as transmitted hither by the Earl of Peterborough, in a Letter, in French, to Sir Charles Hedges, read the Day before, shewed, that it was impossible the Duke of Savoy could be in earnest, the other Project being already concerted; and his Ministers here earnestly desiring, in his Royal Highness's Name, that it might be an absolute Secret; so that even Prince Eugene knew nothing of it, at the time the Earl of Peterborough wrote that Letter.'

Earl of Nottingham.

Hereupon the Earl of Nottingham standing up, said, ' That it was too common to judge of Men by the Events: But God forbid that House shoud follow that Method. That he would give the Lords his Thoughts, why he shoud not, at that Juncture, have been for an Offensive War: That he would not speak as a Soldier, because he was none, but would speak only to Matters of Fact; and if he was wrong, he desired any Lord there would rectify him. That he had no Pique, no Animosity against any body, and would have Justice done without Partiality. That it appeared by the Account, or Representation the Earl of Galway gave of Affairs, towards the end of the Year 1706, or beginning of 1707, that we were in so good a Condition in Spain, that nothing could hurt us: And yet, notwithstanding the Reinforcement which the Earl Rivers brought to Spain, there were not above 14000 Men at the Battle of Almanza. That in such Circumstances, the advising an Offensive War, was a very ill Council: And therefore he concluded for the Question.' Upon this the Earl of Sunderland owned, ' He gave his Opinion for an Offensive War, because, to the best of his Understanding, it was the best Council that could be followed. That it was the general Opinion and Desire of the Nation, that the Earl of Galway shoud march again to Madrid; that all the Ministry then were unanimous in their Opinions for an Offensive War; and that many Inconveniences might have attended the dividing of the Army.'

Earl of Sunderland.

Duke of Marlborough.

' My Lords, (said the Duke of Marlborough) I had the Honour of the Queen's Commands to treat with the Duke of Savoy, about an Attempt upon Thoulon, which her Majesty, from the beginiang of this War, had looked upon as one of the most effectual Means to finish it. And I can assure you, that in the whole Negociation, with his Royal Highness's Ministers, one of whom, Count Briancon, is dead, the other, Count Maffey, is now here, not one Word was spoken of Spain, where the War was to be managed upon its own Bottom, as well as that of Italy; and both independently upon one another.

As

As for the War in *Spain*, it was the general Opinion ^{Anno 9, Anno 11,} of *England*, that it should be Offensive: And as to my Lord *Peterborough's* Projects, I can assure your Lordships, that one of the greatest Instances that *Holland* and *Savoy* made, was, that the Emperor, and we, should not insist upon an Expedition to *Naples*; which might hinder the other Design.

My Lords, my Intentions were always honest and sincere, to contribute all that lay in my Power, to bring this heavy and expensive War to an end. God Almighty has blessed my Endeavours with Success: But if Men are to be censured when they give their Opinions to the best of their Understandings, I must expect to be found Fault with as well as the rest.

My Lord *Galkay*, and every body in *Spain*, have done their Duty: And though I must own, that Lord has been unhappy, and that he had no positive Orders for a Battle; yet I must do him the Justice to say, that the whole Council of War were of his Opinion, to fight the Enemy before the coming up of the Duke of *Orleans*, with a Reinforcement of 9 or 10,000 Men.

On the other hand, I must confess, I do not understand, how the separating of the Army would have favoured the Siege of *Toulon*.

The Earl of *Peterborough* saying thereupon, 'That there was a Necessity of dividing it to go to *Madrid*.' The Duke of *Marlborough* resuming his Speech said, 'I will not contradict that Lord as to the Situation of the Country; but this Separation of the Army could not be in order to a Defensive but to an Offensive War; which, in my Opinion, was the best Way to make a Diversion, and thereby hinder the French from relieving *Toulon*.

But after all, that unhappy Battle had no other Effect, than to put us upon the Defensive; For the French Troops that were detached from *Spain*, never came before *Toulon*.

The Duke of *Argyle* having answered this last Part of the Duke of *Argyle*, Duke of *Marlborough's* Speech, viz. That the Battle of *Almenza* did but put us upon a Defensive in *Spain*: Added, That as for what related to the Earl *Rivers*, it was certainly a Fault to prefer an unfortunate Foreigner before a Peer of *Great-Britain*. To which the Lord *Cowper* replied, 'That Lord *Cowper*, by answering Mr. *Stanhope's* Letter, by approving his Advice, was certainly the wiser, the honestest, and the more popular Opinion; every body in *England* being then for an Offensive War. That he wished every Member in that instant Assembly would lay his Hand upon his Heart, and say, Conscience, whether he would not have been of the same opinion? That to have advised a lingering, expensive, Defensive

Anno 9 Anne,
1710. p. 17.

Offensive War, would, no doubt, have now been made more criminal than this Charge, which was heavy enough. That the raising the Siege of *Thoulon*, could not, in Reason, be imputed to the Offensive War in *Spain*, and to the Loss of the Battle of *Almanza*; but rather, to the Expedition to *Naples*; the slow March of the German Recruits, through the Country of *Grifons*, and other unforeseen Accidents, which attend all human Affairs: But, (added his Lordship,) if this Question should pass into a Resolution, it will be the Comfort of those on whom the Censure will fall, that the World will judge, that it is founded on strained Deductions, and forced Consequences; foreign from the Premises. My Lords, all *Englishmen* love Action, it is their Temper and Inclination. To conclude, I repeat it again, it will be a Consolation, that the Conclusion is not warranted by the Premises.

Earl of Paulett. The Earl of *Paulett* answering, ' That the Battle of *Almanza* was a necessary Consequence of the Opinion and Directions of the Ministry.'

Duke of Devonshire. The Duke of *Devonshire* replied, ' He remembered that the Lords themselves, that now spoke against an Offensive War in *Spain*, were for it some Years before; that, among the rest, the Earl of *Nottingham* moved for twenty Batallions to be sent from *Flanders* to *Spain*, which could not be for a Defensive War; that, after the Battle of *Almanza*, no *French* Troops were sent from *Spain* to relieve *Thoulon*; and, in short, that an Offensive War is always the most effectual Means to procure a Peace.'

Duke of Shrewsbury. To this the Duke of *Shrewsbury* answered, ' That in all Things the Circumstances ought to be considered; that an Offensive War may be proper at one Time, and improper at another. That it having been urged, that no *French* Troops were sent from *Spain* to relieve *Thoulon*, it was certain, some Troops were ordered, and upon their March, whose Approach might have the same Effect, as if they had actually arrived in *Provence*. That it is true, this Nation is for fighting, and for an Offensive War; but not for going to *Madrid* right or wrong, as was General *Stanhope's* Opinion, approved by the Ministry. That the Lord *Galway* had a good Reason to fight, because he could not help it. But that there was no Reason for the Ministers here, to give that Opinion, because nothing forced them to it.'

Duke of Devonshire. The Duke of *Devonshire* taking Advantage of this Occasion, said, ' That since the Allies could not subsist without fighting, it was unreasonable to censure the Generals who gave their Opinions for a Battle.'

Earl of Nottingham. The Earl of *Nottingham* owned, on the other side, ' That he made the Proposal for sending 10000 Men from *Flanders* to *Spain*; but that was after the Battle of *Almanza*; and that only 7000 were sent. That, as to the Business of

Thoulon,

Thoulon, it was certain, that, immediately after the News of Anno 9 Anno,
 the Battle of *Almanza*, the Court of France ordered Detach-
 ments to be made from *Spain*, as appeared by the *Paris*
Gazette of the 4th of May, 1707. That he would not affirm
 those Troops did actually march into *Provence*; but that, as
 had been observed, their Approach was sufficient to contri-
 bute to the raising of the Siege of *Thoulon*. After this, the
 Earl Rivers said, 'That it had been alledged, that the Earl Rivers,
 Battle of *Almanza* was fought because the Allies wanted Provi-
 sions; but he could assure their Lordships, that there was
 a Gentleman here in Town, who brought them Provisions
 for eight Days. That, in truth, they did not design to
 fight, but rather to retire towards *Valencia*, having, for that
 Purpose, sent General Carpenter before, with Part of his
 Dragoons: But, upon the Receipt of Orders from *England*,
 they suddenly resolved upon a Battle, before they were joined
 by General Carpenter, and without communicating to the
 Council of War the Strength of the Enemy, of which they
 had Intelligence by two Deserters the Night before the
 Action.' Hereupon the Earl of Ferrers said on the same Earl of Ferrers,
 Side, 'That it was plain, the Council of *Valencia* was the
 Cause of all our Misfortunes in *Spain*. That the Resolu-
 tions taken in it, were carried against the Opinion of King
 Charles, and his Ministers. That it was certainly a Fault in
 the Ministry here to approve that Council; for a Secretary
 of State gives no Direction but from the Cabinet-Council.
 That it seemed as if the Blame of the raising the Siege of
Thoulon, was intended to be laid on the Emperor's Forces;
 but this Enquiry would be more proper at another time:
 And that another thing was to be enquired into, *viz.* What
 Number of Forces in her Majesty's Pay were, at that time,
 in *Spain*? And so concluded for the Question.' The Lord
 Mohun, on the other Side, said, 'He was against it, for seve- Lord Mohun.
 ral Reasons; 1st, Because he knew not who was meant by
 the Ministry; and he would not have a Censure pass upon
 Persons, who neither deserved, nor were intended to be
 censured. 2^{dly}, Because the Advice of an Offensive War
 was, at that time, no ill Advice. 3^{dly}, Because he would
 be just to all Mankind, and not censure any body that gives
 his Opinion to the best of his Understanding, and with an
 honest Intention.' The Lord Somers owned freely to their Lord Somers.
 Lordships, 'That, had he been in the Place of those that
 gave the Council for an Offensive War, he would have been
 of that Opinion, because he shou'd have thought himself an
 I Councillor to advise any thing against the general Opin-
 ion: adding, 'That the ill Success of the Battle of *Almanza*
 as no good Argument against the Council for an Offensive
 War';

Anno 9 Annae,
1710-11.

Earl Rivers.
Earl of Rocheſter.

War : for, if they judged of Opinions by Events, no Man could be safe.' The Earl Rivers having owned there might be other good Reasons why the *Thouzon* Business did not succeed, the Earl of Rochester said, ' That, for his own Part, he must confess, that, had he, at that time, been of the Cabinet Council, he could not have been for an Offensive War ; nor would popular Arguments have swayed his Opinion ; for he could not see the Reason, that, because the People love Action, we should be perpetually fighting. Concluding, upon the whole Matter, that he was for the Question.

Bishop of Ely. Several Lords calling for the Question, and the Chairman rising in order to read it, the Bishop of *Ely* said, ' He had only one Word to offer, which was, that it not appearing to him that there was any premeditated ill Design in the Ministry, when they gave their Opinion for an Offensive War, he could not be for the Question.' The Duke of

Duke of Argyle. *Argyle* having desired, that when the Question was over, he might offer another ; the same was readily agreed to : And then the Earl of *Abingdon* put the following Question :

The Question.

That it appears by the Earl of *Sunderland*'s Letter, that the carrying on the War offensively in *Spain*, was approved and directed by the Ministers, notwithstanding the Design of attempting *Thouzon*, which the Ministers knew at that time was concerted with the Duke of *Savoy*, and therefore are justly to be blamed for contributing to all our Misfortunes in *Spain*, and to the Disappointment of the Expedition against *Thouzon*.

Division there-
on.

There happening a Division, the Earl of *Portland* and *Isle* were appointed Tellers, and, it appeared, that there were 68 Lords content, and 48 not content.

Duke of Argyle.

After this, the Duke of *Argyle* made a Speech, importing, in Substance, ' That he was informed, that the Earl of *Peterborough* had the Queen's Commands to negotiate Matters of great Importance, and was to set out the next Day. That he hoped every Member of that House was convinced, that he had performed great and eminent Services to his Country, notwithstanding the Difficulties and Discouragements he laboured under ; and how, with a Handful of Men, his Grace thought he might call them a Handful, since they never amounted to ten thousand Men, he took the important City of *Barcelona*, and reduced so many Provinces of *Spain*.— That he needed not tell their Lordships how he had been rewarded for those great Services : But that it was his Opinion, they ought to pass a Compliment upon him, which was all the Reward they could, at that time, bestow :

And

And therefore it was his Grace's Motion, that this Question Anno 9 Anne,
be put.
1710-11.

That the Earl of *Peterborough*, during the Time he had ^{Motives that} the Honour of commanding the Army in *Spain*, did perform ^{L.} *Peterborough* many great and eminent Services ; and, if the Opinion he ^{may have the} gave in the Council of War at *Valencia* had been followed, ^{Thanks of this} it might, very probably, have prevented the Misfortunes ^{House.} that have happened since in *Spain*.

This Question being carried, without dividing, the House was resumed ; and the Earl of *Abingdon* having reported the two Resolutions taken in the Committee, the Lord-Keeper put the same Questions, severally, to the House, which were again agreed to. But before the second Question was put, the Earl of *Wharton* desired, ' That the Lords, who were for E. of *Wharton*. in the first Question, might say, Agreed, and that such Lords as were against it might enter their Protestations.' Which they did accordingly.

A Motion for adjourning to the Monday following being made, the Earl of *Rochester* made another Motion, that such E. of *Rochester*. Lords as pleased, might make Animadversions on the Proceedings of such Lords as should protest ; which was agreed.

Then the Duke of *Buckingham* said, one thing more Duke of *Buck-
ingham*. as to be done before they adjourned, and that he would propose a Question, which he was sure would be readily agreed ^{with}, viz. ' That the Earl of *Peterborough* have the Thanks of the House for his eminent and remarkable Services ; and at the Lord Keeper return him the Thanks of the House, immediately.' This Question being unanimously agreed to, the Lord Keeper addressed himself to the Earl of *Peterborough*, the following Speech.

My Lord Peterborough,

' I am commanded by my Lords to return their Thanks to Lord Keeper's or Lordship, for your many eminent and faithful Services to your Queen and Country, during your Command in ^{Speech in giving the Thanks of the House to Lord Peterbo-rough.} *vn.*'

My Lord,

The Thanks of this illustrious Assembly is an Honour which has been rarely paid to any Subject ; but never after a strict Enquiry into the Nature of any Service ; upon a mature Deliberation ; or with greater Justice, than at this time to your Lordship.

Such is your Lordship's known Generosity and truly la Temper, that I assure myself, the Present I am now ing to your Lordship, is the more acceptable, as it comes and unmixed, and is unattended with any other Re-

ward,
1710-11.

Anno 9 Anne, ward, which your Lordship might justly think would be an
 1710-11. Allay to it.

My Lord.

Had more Days been allowed me than I have had Minutes, to call to mind the wonderful and amazing Success, which perpetually attended your Lordship in *Spain*, (the Effect of your Lordship's personal Bravery and Conduct) I would not attempt the enumerating your particular Services, since I should offend your Lordship, by the Mention of such as I could recollect; and give a just Occasion of Offence to this honourable House, by my involuntary Omission of the far greater Part of them.

Had your Lordship's wise Councils, particularly your Advice at the Council of *Valencia*, been pursued in the following Campaign, the fatal Battle of *Almanza*, and our greatest Misfortunes, which have since happened in *Spain*, had been prevented, and the Design upon *Thoulan* might have happily succeeded.

I shall detain your Lordship no longer than in Obedience to the Order I have received, to return your Lordship as I do, the Thanks of this House, for your eminent and remarkable Services to your Queen and Country, during your Command in *Spain*.

The Earl of Peterborough's Answer.

My Lords,

His Lordship's
Answer.

For the great Honour and Favour I have received from your Lordships, I return my most humble Thanks, with Heart full of the greatest Respect and Gratitude. No Services can deserve such a Reward. It is more than a sufficient Recompence for any past Hardships; and to which nothing can give an Addition. I cannot reproach myself with any want of Zeal for the Public Service: But your Lordships Approbation of what I was able to do towards serving my Queen and Country, give me new Life; and I shall endeavour, in all my future Actions, not to appear unworthy of the unmerited Favour I have received To-day from the great Assembly.'

The Lords Protest which many of the Lords entered, were
test on the Vote follow:

in Favour of L. Peterborough's
Accou t. January the 9th, 1710, Resolved, That the Earl of Peterborough has given a very faithful, just, and honourable Account of the Councils of War in *Valencia*.

January the 11th, 1710. To the Questions for rejecting the Petitions of the Earl of *Galway* and Lord *Tyrone*.

Dissentient.

Dissentient

Anno 1710-11.

Because, that when a Question was stated in the House, which seemed to us to import a Censure on the Conduct of the Earl of Galway, Lord Tyrawley, and General Stanhope, the two Lords being now in Town, should, we conceive, have been heard in their Defence, before the Question passed, tho' they had not petitioned to put in their Answers; much less ought the said Petitions to have been rejected. And, we think, that their having been before examined, on'y as to what they remembered concerning the Council in *Valencia*, (when they did not know that any, much less what Censure was intended upon the Opinions given at that Council) is not sufficient to satisfy what we apprehend to be the Rule of natural Justice, that every one should have an Opportunity of answering for themselves, at least, upon these their humble Petitions, before what we take to be a public Censure should pass upon them.

Bedford, Halifax, Leicester, Ashburnham, Devonshire, Haverham, Sunderland, Wharton, Kent, Lincoln, Dorchester, Berkley, Gilb. Sarum, R. Peterborough, Rockingham, Moun, Marlborough, J. Winton, W. Carlisle, Jo. Landaff, Job. Litchfield and Coventry Stanf'd. Oxford, Somers, Cowper, W Lincoln. Scarborough, W. Alab, J. Bangor, Herbert, Hervey, Bridgewater, Godolphin, J. Ely, C. Norwich, Dorset.

Then it being moved, That the Earl of Galway and Lord Tyrawley (if without) might be called in and heard, it was ordered accordingly; and they not being present, the House, according to Order, was adjourned during Pleasure, and put into a Committee to take into farther Consideration the present State of the War in *Spain*.

After long Time spent therein, the House was resumed, and the Earl of Abingdon reported, That the Committee had come to the following Resolution, *viz.*

That the Earl of Galway, Lord Tyrawley, and General Stanhope, infesting at a Conference held at *Valencia*, some Time in *January*, 1706-7, in the Prefence of the King of *Spain*, and the Queen's Name being used in maintenance of their Opinion, for an Offensive War, contrary to the King of *Spain*'s Opinion, and that of all the General Officers and Public Ministers, except the Marquis das Minas; and the Opinion of the Earl of Galway, Lord Tyrawley, and General Stanhope, being pursued in the Occasions of the following Campaign, was the unhappy Opinion of the Battle of *Almanza*, and one great Cause of our Misfortunes in *Spain*.

Anno 9 Anneæ, 1710-11. and of the Disappointment of the Duke of Savoy's Expedition before *Thoulon*, concerted with her Majesty.

And the Question being put, That the House agree with the Committee in the said Resolution?

It was resolved in the Affirmative.

Dissentient'

1st, Because we conceive, that the Proofs which have been before the House were not sufficient to warrant the Facts as they were stated in the Question.

2dly, Because we conceive, that the said Proofs do not support the Consequences drawn from the Facts stated in the Question; especially the Disappointment of the Expedition against *Thoulon*, which (as we humbly apprehend) was clearly occasioned by other Causes, and not by the Cause assigned in the Question.

2dly, Because we conceive, it may be of dangerous Consequence, if those who may have the Honour to serve the Queen in *Spain*, should from hence have Reason to apprehend, that they may be censured for presuming to infest on such Opinions, as shall appear to them to be most for the Queen's Service, and the common Cause, if contrary to the King of *Spain*, and his Ministers.

The same Lords subscribed to these Reasons, as to that of rejecting the Petitions.

January the 12th, The House, according to Order, was adjourned during Pleasure, and put into a Committee to take into farther Consideration the present State of the War in *Spain*: After a long Time spent, the House was resumed, and the Earl of *Abingdon* reported, that the Committee had come to the following Resolutions, *viz.*

Resolution of the Committee. 1st, That it appears by the Earl of *Sunderland*'s Letter, that the carrying on the War Offensively in *Spain*, was approved, and directed by the Ministers, notwithstanding the Design of attempting *Thoulon*, which the Ministers, at that Time, knew was concerting with the Duke of *Savoy*, and therefore are justly to be blamed for contributing to all our Misfortunes in *Spain*, and to the Disappointment of the Expedition against *Thoulon*.

2dly, That the Earl of *Peterborough*, during the Time he had the Honour of commanding the Army in *Spain*, did perform many great and eminent Services; and if the Opinion he gave in the Council of War at *Valencia* had been followed, it might, very probably, have prevented the Misfortunes that have happened since in *Spain*.

Then the first Resolution being read by the Clerk, the Question

Question was put, That the House do agree with the Committee in this Resolution ?

1710-11.

It was resolved in the Affirmative.

Dissentient'

Because that, considering the Army of the Allies in *Spain* Protest on the was to receive so great an Addition of Troops by the Supply first Resolution. sent under the Earl *Rivers*, the general Desire and Expectation of the Kingdom to have the War brought to a speedy Conclusion, and all other Circumstances of the War, as it then stood ; we are of Opinion, that an Offensive War was then fittest for those in her Majesty's Service to advise ; and we do not find Reason, by any thing arising on the Examinations and Debates, to be of another Opinion ; the Occasion of fighting the Battle of *Almanza*, depending, as we conceive, on Causes subsequent to that Advice ; the ill Success of it, as we apprehend, being justly attributed to other manifest Reasons, and the real Design on *Thoulon*, as finally adjusted with the Duke of *Savoy*, not requiring, as appears to us, the Assistance of any Forces from *Spain*.

Devonshire, Kent, Lincoln, Wharton, Godolphin, Gilb. Sarahum, Somers, Jo. Litchfield and Coventry, W. Asaph, Dorset, Jon. Winton, Sunderland, Bolton, Bedford, Leicester, Stamford, Rockingham, Scarborough, J. Ely, W. Lincoln, Jo. Landaff, Hervey, Rich. Petriburg, J. Bangor, Marlborough, Dorchester, Orford, Herbert, Mabun, Cowper, Aſburnham, C. Norwich, Bridgewater, Derby, Carlile, Berkeley.

The Earl of *Galway*'s Reply, or Observations upon the Earl of *Peterborough*'s Answers to the five Questions proposed to his Lordship by the Lords, are as follows :

‘ Your Lordships having been p'eased to allow me a Copy of all such Papers as have been produced, to prove the Truth of the Earl of *Peterborough*'s Answers to the five Questions that were proposed to him by this honourable House, together with a Copy of those Questions and Answers, with Leave to answer to any such Part thereof as I might conceive myself to be concerned in, and have not already sufficiently explained in my Narrative, I do take the Liberty of observing to your Lordships, that,

‘ The Earl of *Peterborough*, to the first Question, is pleased to say, ‘ The Management of the War in *Spain*, when under the Conduct of other Generals, was not only supported with great Numbers of Men, and vast Sums of Money, but also with notorious Falshoods, published in their Favour, to excuse their repeated Disgraces.’ —— Whereas his Lord-

ship

Anno 9 Annae, 1710-11. ship cannot but remember, that when he sailed from *Portugal* with the King of *Spain* to *Barcelona*, he left only one Regiment of Horse, and five of Foot, under my Command in that Country ; I have voluntarily offered him, and he as freely accepted of two Regiments of Dragoons from *Portugal*, and four Batallions of Foot from *Gibraltar*, which I had sent to the Defence of that Place.

‘ I declare, I never traduced the said Earl’s Conduct, either by Letters or otherwise, tho’ it seems the Queen had been fully informed thereof, particularly in regard to the Misunderstanding between his Lordship and the King of *Spain*, to which his Catholic Majesty has attributed his Delays in marching to his Capital, as may appear by Count *Gallas*’s Memorial, a Copy whereof lies upon your Lordship’s Table. It is well known, the first Disgrace that ever happened to us in *Spain*, was occasioned by his Lordship’s not joining us in Time at *Madrid*; and all the Misfortunes that attended us afterwards, were owing to that Neglect.

‘ His Lordship is pleased to say farther in his Answer to the same Question, ‘ That to excuse the fatal Battle of *Almanza*, a King was to be used at that rate, as to have it, in an Account, printed by Authority, declared, that he took Numbers amounting to 4 or 5000 Men, from a Battle to be fought for his Crown, the very Regiments of Horse and Foot mentioned by Name : Whereas it is notoriously known to the whole World, that he took only about 200 miserable *Spanish* Dragoons ; and that of the Regiments mentioned to be taken away from the *English* General in *Valencia*, some of them were never in being ; others were Regiments of Trained Bands in *Barcelona* ; and none of them within 250 Miles of that Place.’ — Whereupon I beg Leave to observe, That, notwithstanding the Earl’s Reflectionon that Paper published by Authority, the Account therein printed is so far from having been exaggerated, that there were actually some Batallions of Regular Troops absent in *Catalonia*, besides those mentioned in the *Gazette*, June 1707 ; and several Officers who were at *Almanza* can depose, that there was not one *Spanish* Corps, either Horse, Foot, or Dragoons, on our Side, at that Battle.

‘ If Part of the King’s Forces were at 250 Miles Distance, that may be a Reason why they could not be at the Battle ; but none can be given for their being at that Distance, except in the Case of some few Garrisons, which might, indeed, have been necessary, but could not require above six or seven Batallions, whilst the Army was then in the Field ; whereas his Catholic Majesty had, at that Time, in his own Pay in *Spain*, above 6000 Men, besides the *Dutch* and *English* that were

were in *Arragon* and *Catalonia*. And those Regiments which ^{Anno 9 Anne} the Earl is pleased to call Trained-Bands, because they bore ^{1710-11.} the Name of some particular Town or Province that raised or subsisted them, are no more so, than the Regiments of *Picardy* and *Burgundy* in *France*, tho' newly raised.

‘ In his Lordship’s Answer to the second Question he is pleased to aver, ‘ That, from the Time the Earl of *Galway* came first into *Spain* as far as *Almaras*, and thence returned back to *Portugal*, the Earl of *Peterborough* had no Advices from the Earl of *Galway*, no Account of the Motives of that Retreat, or any Hopes given him of the Return of the *Portuguese* into *Spain*.’ What his Lordship says upon this Occasion is very true, for whilst he was at so great a Distance, besieged in *Barcelona*, and the Duke of *Berwick*, with a considerable Body of Horse, between him and us, it was to no Purpose to think of sending Dispatches by Land; neither was it necessary to inform the Enemy that way, that the *Portuguese* were resolvéd (notwithstanding the repeated Instances of the foreign Generals to the contrary) to return back again to their own Country, after their Army had advanced as far as the Bridge of *Almaras*. But when we got to *Madrid*, I immediately sent so many Expresses with Letters, both to the Earl of *Peterborough*, and the King of *Spain*, that it was morally impossible his Lordship could have been ignorant, above eight Days, of our Arrival there; And I have since been assured, by the Inhabitants of *Barcelona*, that they were all informed of it by that Time; from whence I must conclude, that his Lordship’s Delays in joining us were voluntary, and not occasioned by want of Intelligence. I have asserted in the Narrative, which I delivered into this most honourable House, that I do verily believe, if the *Portuguese* Army had been joined in Time after their Arrival at *Madrid*, by the Forces with the King of *Spain*, and under the Command of the Earl of *Peterborough*, we might have been able to have driven the Duke of *Anjou* out of *Spain*, and have put an End to an expensive War; nor was this my Opinion only, but that of all the World, at that Time. And I find his Lordship thinks it so far imports him, to be clear of this Imputation, that he is resolved to be rid of it at any rate. For, certainly, nothing less than an Apprehension of this nature could have made him aver a Fact so improbable as that, where, in his farther Answer to the same Question, he says, — ‘ That he received no Letter, no Message from the Earl of *Galway*, — after his second Entrance into *Spain*; nor had the least Notice of his Situation, Circumstances or Designs, till he saw his Troops retreating from the Enemy, to take the strong Camp of *Guadalaxara*.’

‘ Now

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‘Now what could be the Design of his Lordship’s marching to *Guadalaxara*, with so small a Body of Troops as is mention’d in my Narrative, unless he knew he was to meet us there? Besides, his Lordship forgets that he came not to *Guadalaxara* till some Days after the *Portuguese* had been actually encamped there, as I can make appear by the Oath of several Officers; and consequently, it was impossible for him to have seen us retreating thither.

‘I believe it may be necessary, upon this Occasion, to repeat, that when his Lordship did join us, he brought no more *English* Troops with him, than one Regiment of Dragoons and a Detachment of another, though he had actually at that time under his Command in *Spain*, thirteen *English* Battalions, and four Regiments of Dragoons; as likewise, that the Officer, who (his Lordship says) passed through his Quarters, with Letters from the King of *Spain*, and none for him, was never designed to have gone within several Leagues of his Lordship, unless he had been obliged to it by a Party of the Enemy, as I have already explained more at large in my Narrative; and I cannot help observing, ‘tis very improbable that Officer could have Occasion to app’y to the Earl’s Secretary for Money, because I gave him an hundred Piastoles at the Time I dispatched him.

‘In his Lordship’s Answer to the third Question, he is pleased to say, — ‘That the Earl of *Galway* continued about forty Days at *Madrid*, without making any Endeavours to augment his Troops, or provide any Magazines for the Subsistence of his Army; that meeting the Enemy unexpectedly, and retreating to the Camp of *Guadalaxara*, the Troops were without Provisions, and in the greatest Disorder.’ In reply to this Paragraph, I do affirm, that the *Portuguese* staid no longer time at *Madrid*, than was necessary to get the King proclaimed there, which did not exceed ten Days; then advanced as far as *Guadalaxara*, about fifty Miles beyond *Madrid*, where we obliged part of the Duke of *Anjou*’s Troops to repass the River; but were not willing to engage them, at a time, when he had Reason to expect we should have been joined in a few Days, by the Forces with the King of *Spain*, and Earl of *Peterborough*, which was the only secure Method left us to augment our Troops; for it would have been very imprudent to have attempted to form Corps of the *Castilians*, who were entirely devoted to the Duke of *Anjou*’s Interest. But all the Officers of the Army know, we were so far from wanting Provisions ourselves, that we sent a Convoy of 8000 Loaves to meet the King and the Earl of *Peterborough*, which by their Delay in not advancing fast enough) grew mouldy; and was afterwards pillaged by the Peasants.

His

His Lordship's Information of our Want of Intelligence of Anno 9 Annas,
 the Enemy's Motions, and of our Disorder upon the Retreat,
 are as great Mistakes as the former ; for the Occasion of our
 advancing to *Guadalaxara* was purely to post ourselves in
 such a Manner, as to prevent the Enemy from marching or
 sending Detachments to intercept the King of *Spain* ; and
 when we had Reason to believe him out of Danger, we re-
 turned to *Guadalaxara*, there to be joined by the King and
 Earl of *Peterborough* ; nor was it possible for his Lordship to
 have seen our Disorder had there been any, because, as I
 have already observed, he came not to *Guadalaxara* himself,
 till some Days after we had been encamped there.

‘ Notwithstanding the Earl of *Peterborough* is pleased to say, —— ‘ That we lost 5000 Men in the Retreat to *Valen-
 tia*, without a Blow, and entirely ruined our whole Caval-
 ry.’ ’Tis certain, our Loss upon that Occasion, was not very
 considerable, if any, and the Retreat made in so good Order,
 that the Enemy (superior as they were in Number) never
 durst venture to attack us, after the warm Reception twenty
 two of their Squadrons met with from two Batallions under
 the Command of Colonel *Wade*, in the Town of *Villa-Nova*,
 notwithstanding we were obliged to cross Plains and Rivers
 in their View.

‘ And though his Lordship avers in his Answer to this
 Question, —— ‘ That this Retreat was made against the
 King’s Opinion, and that of all his Officers and Ministers.’ It is certain, the Retreat was concerted and agreed upon in a
 Council of War: ’Tis true, some Persons about the King
 seemed, at first, inclinable to have taken Quarters in *Castile*,
 but that was soon after found impracticable ; for none of those
 Spaniards, who were best acquainted with the Country, could
 make a Disposition of Quarters, where the Troops could be
 secure ; and therefore it was resolved immediately to cross the
Tagus, before the approaching Rains should have rendered
 the Fords impracticable ; which being done, our next Design
 was to have lodged ourselves behind the River *Xucar* : But
 neither could this be done, without taking a small Town
 with a Castle upon that River, that commanded a Bridge,
 where the Enemy had a Garrison ; and therefore a Disposi-
 tion was made for attacking this Town ; but by the Delay
 of the King’s Generals the Execution of this Matter was so
 long deferred, that the Enemy had already reinforced their
 Garrison, and were advanced so near us with a superior
 force, that it was not thought adviseable to attempt the
 place. Thus the only Resource left us was the Kingdom of
Valencia, whither we were absolutely to retreat, that we

Anno 9 Anne, might preserve our Communication with the Seas, and can-
1710-11. ton with Security.

‘ Nor is it to be wondered at, that Count *Noyelles*, in his Letter to the Earl of *Peterborough*, should seem dissatisfied with the Measures that were then taken, since ‘tis well known, that General used underhand to ridicule those very Opinions in Councils of War, to which he had given his Assent: For, being disappointed of the Command of the Army, (which was what he expected at his first Arrival) he seemed resolved, that no other General should have an Army to command. ‘Tis very notorious, that a *Dutch* and *Spaniſh* Battalion, with a Detachment of *Engliſh* and *Portuguese*, amounting to above 3000 Men, were sent to *Cuenca*, and thrown away there (after it had been resolved to retreat to *Valencia*) purely to satisfy his Importunity; for I always foresaw it would be impossible to protect a Garrison at that Distance from our Quarters: But what is still more extraordinary, the sending the King’s Troops into *Arragon* with part of the *Dutch*, who might otherwise have been at the Battle of *Almanza*, was another fatal Effect of Count *Noyelles*’s Advice.

‘ In the Earl of *Peterborough*’s Answer to the fourth Question, he is pleased to say, — ‘ That several Councils of War were held in the Month of *January* at *Valencia*, about the Time that Intelligence was brought that the Forces under the Earl *Rivers* were entered into the *Mediterranean*, in order to adjust the Measures for the ensuing Campaign: That the Matters therein debated were principally, whether the Army should march towards *Madrid*, or seek the Enemy: In the Debates, the Earl of *Peterborough* positively assures, that the Earl of *Galway*, Mr. *Stanhope*, and the Lord *Tyrawley*, supported those Measures with the *Portuguese* General; and that the King, the Count *de Noyelles*, the *Spaniſh* Generals and Ministers, with himself, argued strongly against those Measures, as highly dangerous and impracticable; and this in repeated Councils of War, till, at last, the Earl of *Peterborough*, sollicited by the King of *Spain* to renew the Debate, desired the King that he would order all called to the Council, to bring their Opinions in Writing, that every body’s Opinion, and Reasons for that Opinion, might appear, and be known to the World; which, according to the King’s Commands, were put in Writing, and delivered at the Council.

‘ In Reply to this Assertion, I would beg Leave to appeal to your Lordships Memories, whether upon the first mention of these Resolutions in this most honourable House, the Earl did not as positively affirm, ‘ That the conclusive Council for the Operations of the ensuing Campaign was held on

the 15th of *January*, and whether he did not offer to depose *Anne* *9 Annes*
 on Oath, that in that very Council, no Person whatever was *1710-11.*
 of Opinion for making an Offensive War, and against dividing
 the Troops, but the Lord *Tyrawley*, Mr. *Stanhope*, and I ?
 Soon after, indeed, upon farther Recollection, he was pleased
 to add the Marquis *das Minas* to our Number ; and, I observe,
 he has since given himself a much larger Latitude, both as to
 the Time of holding that Council, and as to the Persons
 who voted for an Offensive War. His Lordship is now so far
 from confining himself to a Day, that he takes in the whole
 Month, and, by accusing us more modestly, for having op-
 posed only the King, Count *Noyelles*, himself, and the *Spanish*
 Generals and Ministers, leaves half the Council on our Side ;
 for supposing all the *Spanish* Generals and Ministers to have
 assisted at that Council, there could only have been twelve
 Persons there, *viz.* Prince *Lichtenstein*, Count *Oropesa*, Count
Corsana, Count *Cardona*, Count *Noyelles*, my Lord *Peterbo-*
rough, the Marquis *das Minas*, Count *d' Assumar*, my Lord
Tyrawley, Mr. *Stanhope*, Monsieur *Freishman*, and I. The
 last six his Lordship has plainly left on our Side ; but my
 Lord *Tyrawley* positively affirms, Count *Oropesa* was of the
 same Opinion, and believes Count *Corsana* was so too. Thus,
 taking the Matter as the Earl of *Peterborough* is pleased to
 state it, we had an Equality ; and, as my Lord *Tyrawley* re-
 members, the greater Number of our Party.

‘ Perhaps when my Lord *Peterborough* contends so posi-
 tively to prove that Council of the 15th of *January* conclu-
 sive, he was led into that Error, by the Mistake in my Lord
Sunderland’s Letter, in an Answer to one of Mr. *Stanhope*’s
 of *January* the 15th ; but he has since been pleased to allow,
 that the Council of the 15th was not conclusive, and that
 many more subsequent Councils were held, which determined
 the Operations of the ensuing Campaign, wherein he voted
 himself for marching to *Madrid*, by the Way of *Arragon*,
 which, I should have imagined, had left no farther room to
 mention our Opinions of the 25th ; but because he is still
 resolved to make good his Charge against my Lord *Tyrawley*,
 Mr. *Stanhope*, and me, he affirms to your Lordships, ‘ That
 the Occasion of that Change in the subsequent Council was,
 because the Opinion of the Majority had been over-ruled by
 Minister of her Majesty, assuring, that the Queen had gi-
 ven him Orders to declare in her Name, that her positive
 Orders were, that they should seek the Enemy, march
 to *Madrid*, and not divide the Troops, upon any Account
 whatsoever.’

‘ I must confess, I do not conceive that it imports me
 much to reply to this Part of the Earl’s Answer, nor shall I

Anno 9 Anne, attempt to make a Defence for an absent Man; for if Mr. Stanhope was here, I doubt not but he would be able sufficiently to justify his own Conduct in this Affair: Yet I cannot help saying, that even Malice itself has never yet suggested, that my Lord Tyrawley, Mr. Stanhope, and I, did not act, on that Occasion, with great Integrity, according to the best of our Understandings; nor (with great Submission to this most honourable House) shall I ever be ashamed to own an Opinion, which was then, not only the common Sense of the Army, but agreeable to the Desires and Interest of the whole Kingdom of *England*. In the Earl of *Peterborough*'s farther Question, he is pleased to say, — ‘ That, notwithstanding this, the Earl of *Gakway* brought the Army into the Plains of *Valencia*, the direct contrary Route to that of *Arragon*, and into all those Dangers which he was to avoid, by marching by the Head of the *Tagus*.’ In Reply to this Answer, I shall only observe, that I had not the Command of that Army (which consisted of three separate Bodies, *English*, *Portuguese* and *Dutch*) but the Marquis *das Minas*, from whom I always received Orders; and the Battle of *Almanza* was fought by the unanimous Approbation of a Council of War; nor could the Resolutions of that Council have ever been executed, had there been the least Difference in Opinion, because each Commander of a separate Corps might have refused to march.

‘ For the Occasion of our moving towards *Almanza*, I must beg Leave to refer to my Narrative, where I have mentioned more at large, that, in order to execute the Resolutions of those Councils of War, where it was agreed, we should march to *Madrid* by the Way of *Arragon*, but first to destroy the Enemy’s Magazines on the Frontiers of *Valencia*, I went with the Marquis *das Minas*, in the beginning of *April*, to *Yecla*, where the Enemy’s chief Magazines lay, and from thence to *Villena*, where we had Advice of their Troops being assembled at *Almanza*, upon which that Council was held, wherein the Battle was unanimously resolved on. The Earl of *Peterborough* is pleased to add a Reason for his Opinion, — ‘ That the Duke of *Savoy* and Prince *Eugene* had declared their Sentiments for a Defensive War at that Time in *Spain*, and had communicated their Thoughts to *Charles III.* upon that Subject, to the certain Knowledge of the Earl of *Peterborough*, as he can make appear by authentic Papers from the King of *Spain*.’

‘ I shall not take upon me to deny a Matter of Fact, which his Lordship so positively affirms, but I have been credibly informed that the Duke of *Marlborough* and my Lord *Godolphin*, did both of them assure this most honourable House, that the true

true Project against *Thoulon* was not concerted by the Earl of *Peterborough*, Prince *Eugene*, and the Duke of *Savoy*; but first set on foot by the Duke of *Marlborough* with Count *Maffey* in *Flanders*, and finished in *England*, with the Counts *Maffey* and *Briancon*; but did not require that any Troops should be sent from *Spain*, nor was ever communicated to the Earl of *Peterborough*; which, indeed, his Lordship seems to be aware of, when he says, not long after, that the Project against *Thoulon*, as settled by him, had been so altered, that the Duke of *Savoy* publicly declared his Dislike of engaging in it. — And yet it is most certain, that his Royal Highness did engage in an Attempt against *Thoulon*, pursuant to the Project concerted in *England*; and though that Attempt did not prove entirely successful, it had a very good Effect, for thereby a great Body of the Enemy's Troops were diverted from acting elsewhere; and a considerable Damage was done to the Fleet and Magazines of *France*.

‘ What his Lordship says, concerning a Project that was formed for the taking of *Origuela* before the opening of the Campaign, is very true; but that Project being afterwards found impracticable, for want of Provisions, and the Campaign drawing near, the Earl *Rivers*'s Troops, which had been quartered, after their landing at *Alicant*, in the nearest and most commodious Towns for their Reception, were ordered to remove to the *Oya de Castalla*, two short Days March from the Places where they lay before, that the Enemy might not get between them and the rest of our Quarters, to surprize us.

‘ In the Earl's Answer to the fifth Question, he says,— ‘ The King of *Spain*, when the Troops were marching into *Murcia* towards the Enemy, assembled a Council of War to no other Purpose, but to send by the Hands of his Secretary of State a Protest, with his Reasons why he would not march with the Army, but to go to protect his Subjects in *Catalonia*; the Contents of which Protest the Earl very well remembers, having had a Copy of it by the King's Order.’ His Lordship's Memory, as positive as he is, must have failed him extremely in this Matter, for the Army never did march into *Murcia*, nor any Part of it, except a Detachment of the Troops under his Lordship's Command, which returned from thence with very ill Success; and whatever he may aver to have been the Reason of the King of *Spain*'s leaving the Army, and going to *Catalonia*, 'tis certain, his Journey thither was fixed long before the Army assembled, for no other Reason, that I ever yet heard of, but because he had a mind to redress some Disorders there; and his Majesty always promised to be back again by the Time our Army should be

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be ready to take the Field : And it is notoriously known, that the Reasons for that Journey were thought so insufficient, that not only all the Foreign Generals and Ministers, but even the City and Kingdom of *Valencia*, by their Deputies, protested against it.

As to what the Earl of *Peterborough* is pleased to say, concerning those Instruments which he has to produce, as Proofs of the King of *Spain*'s having been over-ruled, on many Occasions, in what he proposed for the Public Service—I can only reply, that I do not remember to have seen any of those Proofs, except a Letter of the King of *Spain* to his Lordship, where his Majesty observes, that the *English*, *Portuguese* and *Dutch* Generals had refused him Men to send to *Majorca*, in Councils of War held on the 17th and 19th of *January*; from whence, I hope, I may reasonably infer, the great Probability of those Generals having been of Opinion, but two Days before, against dividing the Troops : And I must say, my Behaviour to the King of *Spain*, whilst I had the Honour to serve under him, was such, that he never had Occasion to complain against me, by his Ministers to the Queen, as he did most strenuously, by the Count *de Gallas*, against the Earl of *Peterboroug*.

* G A L W A Y .

It was generally believed that the Lords would have been contented, with having passed a slight occasional Censure

or

* About the middle of *January* the Earl of *Peterborough*'s Friends published a Letter from the Duke of *Marlborough* to his Lordship, which was lodged in the House of Lords, with several other Papers, upon the aforementioned Examinations, made by that illustrious Assembly, of his Lordship's Conduct in *Spain*; which Letter was as follows :

My Lord,

Tho' we have no direct Account of your Lordship's Progress, since the Relief of *Barcelona*, yet the Advices from several other Parts, as well as the Enemy's Frontiers, agree so well, and we are naturally so inclined to believe readily what we wish, that, I persuade myself, there is no Reason to doubt of your having some time since brought the King to *Madrid*. As this good News has been indulged here with the greatest Satisfaction, I do, with no less Pleasure, take this fresh Opportunity of congratulating your Lordship on the glorious Occasion; which is by all Hands chiefly attributed to your Valour and good Conduct. The whole Confederacy is full of Joy for the Advantages this wonderful Success will produce to the Public; and I assure you, I am no less so, for the Addition it has made to your Lordship's Glory, in which no Man alive takes more Part than I do. After such surprizing Events, there is nothing that we may not expect from you; therefore I hope your Lordship will not think us unreasonable in our Hopes, that we shall soon hear of the entire Reduction of *Spain* to the Obedience of their lawful Sovereign, for which you seemed designed by Providence to be the happy Instrument; and I heartily wish you all manner of Success in the accomplishing this great Work.

W

on the Earl of Galway; which seemed the more probable, *Anno 9 Anne*, because the most considerable Peers, of both Parties, had 1710-11. spoken very honourably of him in the foremention'd Debates: But on Friday the 17th of *January*, he was summoned to attend their Lordships the Monday following. My Lord Galway being then indispos'd with a Rheumatism and the Gout, and therefore unable to obey that Order; the Lords sent him a Question in Writing, *viz.* Why, whilst he commanded the *British* Forces in *Spain*, he gave the Right to the *Portuguese*? To this the Earl of Galway sent an Answer, importing, ' That by the Treaty with *Portugal*, the Troops of that Crown were to have the Right in their own Country; and that in order to engage them to march to *Madrid*, he was obliged to allow them the same Honour; for otherwise, they would never have stirr'd out of *Portugal*. Tho' this Reason seem'd very plausible; and, it is certain, that if the *Portuguese* had not march'd into *Castile*, upon my Lord Galway's refusing to give them the Right in *Spain*, his Lordship would certainly have been generally reflected on, for losing the vast Benefit that was reasonably expected from the Conjunction of the *Portuguese*, with King Charles's Forces, on a Punctilio of military Honour; yet, (perhaps, lest such a Condescension should be drawn into a Precedent) the Lords thought fit to resolve, by a Majority of 64 Voices against 44, Which is voted That the Earl of Galway, in yielding the Post of her Majesty's Troops to the *Portuguese* in *Spain*, acted contrary to dishonourable to the British Nation.

A Week after, (being the last Day of *January*) the Lords resum'd the Consideration of the State of the Nation, in relation to the Affairs of *Spain*; and debated, why there were but about 13700 effective Men at the Battle of *Almanza*, when the Parliament had provided for about 29000: After which, their Lordships appointed a Committee to enquire into that Matter. It is observable, that in this Debate, no manner

We have reduced *Ostend*, and are now making all possible Diligence in the necessary Preparations for the Siege of *Menin*, and hope, with the Blessing of God, we shall not end our Campaign there. I am, with Truth and Respect,

My Lord,
Your Lordship's
Faithful and humble Servant,

MARLBOROUGH.

Note, That *Ostend* was surrender'd on the 6th of July, 1706: That *Menin* was invested on the 22d of that Month: That about the middle of August the Earl of Peterborough was sent away from the Camp towards *Enoa*, to sollicit Money for King Charles; and that thereupon the Earl Galway had the sole Command of the united English Army conferr'd on him.

Anno 9 Anne; manner of Fault was found with my Lord Galway; and
1710-11. that the whole Blame was laid on the late Ministry.

February the 3d, Upon Report from the Committee of the whole House appointed to take into further Consideration the present State of the War in Spain, that they had come to this Resolution, *viz.*

(That the two Regiments upon the Spanish Establishment, twice demanded, and provided for by Parliament, were not supplied as they ought to have been.)

And the same being read, the Question was put, Whether to agree with the Committee in this Resolution?

It was resolved in the Affirmative. Contents 62; Not contents 46.

Dissentient

Because the Estimates in which the two Regiments of *Hill* and *Holbom* were twice demanded, were agreed to by Parliament for the Service of *Portugal*, as well as of *Spain*; and that Mistake could not, in our Opinion, have been more effectually or sooner supplied than from *Ireland*, and in the manner they were; for it appears to us, the said Estimates were not agreed till the 11th of *Januaay*, 1706-7.

That the necessary Order for transporting four other Regiments from *Ireland* to *Portugal* were issued on the 8th of *February* next following; and that the Money provided for the said two Regiments, twice reckoned, was applied to the Payment of the said four Regiments from the Time of their Embarkation.

Devonshire, Ashburnham, Jo Ely, Jo Landaff, Godolphin, T. Wharton, Sunderland, Ric. Petriburg, Herbert, Scarborough, Rochester, J. Bridgwater, Kent, Jon. Winton, Jo. Bangor, W. Lincoln, Rockingham, Lincoln, J. Litch and Cov', Stamford, Pelham, Bolton, Westmoreland, Sommers, Halifax, Gi. Sarum, W. Carliol, Cholmondeley, Haverham, Hervey, C. Norwiche, Orford, Cornwallis, Bedford, Carlisle, Couper.

Then another Resolution of the said Committee being read, *viz.*

(That by not supplying the Deficiencies of the Men given by Parliament for the War in Spain, the Ministers have greatly neglected that Service, which was of the greatest Importance.)

The Question was put, Whether to agree with the Committee in the said Resolution?

It was resolved in the Affirmative.

Dissentient

Because the Resolutions on the former Particular is not

Vote concerning the Deficiencies of Men on the said Establishment.

And Protest thereon.

As we conceive, a sufficient Ground for this general Vote; and the Committee of the whole House having declined to give any Opinion on the other Particulars, we think it unreasonable to proceed to a Censure on the Ministers for not supplying the Deficiency, without first resolving on the several Particulars, how far that Deficiency might be justly imputed to them.

And we are of Opinion, that all the Money given by Parliament, for the Service of *Spain* and *Portugal*, has been timely and punctually issued for that Service.

The rest of this Protestation was expunged by Order of the 9th Instant, and is not legible.

Cornwallis, Jonat. Winton, Will. Carliol, Jo. Landaff, Aßburnham, Herbert, Bolton, Lincoln, Rockingham, T. Wharton, Bedford, J. Bridgewater, Jo. Bangor, Devonshire, Ric. Petriburg, W. Ajab, Godolphin, Stamford, Haverham, Dorchester, Scarborough, J. Litch and Cov, Pelham, Westmoreland, Gi. Sarum, Kent, W. Lincoln, Somers, Cholmondeley, Orford, Cowper, Carlisle, Halifax, Hervey, C. Norwich, Sunderland, J. Ely.

In consequence of what before passed in the House, relating to the Affairs of *Spain*, the following humble Representation of the Right Honourable the Lords spiritual and temporal was presented to her Majesty, on Saturday the 10th day of February, 1710.

WE, your Majesty's most dutiful and loyal Subjects, Lords ^{Representatives} spiritual and temporal in Parliament assembled, do, with all Humility and Thankfulness, acknowledge your great Goodness and Condescension, in ordering to be laid before us many Letters and Papers relating to the War in *Spain*, by which, and by the Examination of divers Persons, and by the Assistance of the Earl of *Peterborough*, who, by your Majesty's Permission, informed us, with great Exactness, of many Particulars, and gave us a very faithful, just and honourable Account of the Councils of War held in *Valencia*, we have been enabled to discover some of those many Miscarriages which have disappointed the Hopes your Majesty, and a *Europe*, justly conceived from the Resolutions of your Parliaments; and had they been pursued with as much Care by those whom your Majesty entrusted, as they were taken with Zeal and good Affection, the Success, by the Blessing of God, might have answered those Expectations.

When we consider how generously your Majesty engaged in this War for asserting the Liberties of *Europe*, and the Rights of the House of *Austria* to the Spanish Monarchy,

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which had been wrested from them by the Artifices and
 Usurpations of the French King, when a Prince of that
 illustrious Family came to your Majesty for Refuge against
 Oppression, and that your Majesty had received him into
 your Protection, moved thereunto not only by your own
 innate Goodness, but by the Voice of your People too,
 who were ready to sacrifice their Lives and Treasure for
 the Support of your Majesty in the Defence of so righteous
 a Cause; and when we further consider what would have
 been the happy Fruits of a successful War in Spain, the
 Honour of your Majesty, the Safety, Wealth, and Prospe-
 rity of your own Dominions, and the lasting Peace of
 Europe: we are astonished to find, that any employed by
 your Majesty should contribute to the Disappointment of
 so glorious a Design, or so much as neglect to promote it.

We were extremely surprized to find, by all the Ac-
 counts now before us, that of the 29,395 Men given by
 Parliament for the Service of the War in Spain, there
 should be present in Spain, at the Time of the Battle of
 Almanza, only 13,759.

However the Earl of Galway, who commanded your
 Majesty's Troops at that Time in Spain, may have deserved
 to be censured in other Respects, we cannot charge him
 with

The Deficiency of 1710 Men, twice reckoned in the
 Regiments of Hotham and Hill:

Nor of 876 Men of Lord Barrimore's Regiment, re-
 duced by the Earl of Peterborough, and was then raising
 in England:

Nor of 1833 Men, allowed for Servants of the Officers
 belonging to the Regiments actually in Spain, and not re-
 duced at the Time of the Battle:

Nor of 151 of the Widows Men for all the Regiments
 in Spain at that time:

Nor of 3741 Men of the Regiments of Farringdon
 Hamilton, Mobun, Brudenel, Allen, and Toby Caulfield, the
 were reduced some Time before the Battle:

Nor of the 622 non-commission'd Officers and priva-
 Men of Blafet's Regiment, that were reduced by the Earl
 Rivers, and incorporated into Sybourg's.

For, whatever Defects there have been, these are not
 of them justly to be imputed to those who had the Ma-
 nagement of your Majesty's Affairs here, whose Duty
 was to give the necessary Orders, and to require the due
 Execution of them, for a Service which the Nation has
 so much at Heart, as there covering Spain out of the Hand
 of the French.

‘ And therefore, whatever the Reasons may have been ^{Anno 9 Anne,}
for reckoning the Regiments of *Hotham* and *Hill* twice in ^{1710-11.}
the Estimate presented to the House of Commons ; yet,
since the Number of Men demanded for the Year’s Ser-
vice was readily agreed to by them, we could not but be
of Opinion, That the two Regiments upon the *Spaniſh*
Establishment, twice demanded, and provided for by Par-
liament, were not supply’d as they ought to have been.

‘ And, upon Consideration of the other Deficiencies, we
have found Reason to resolve,

‘ That by not supplying the Deficiencies of the Men,
given by Parliament for the War in *Spain*, the Ministers
have greatly neglected that Service, which was of the
greatest Importance.

‘ And yet, Negligence, and the Profusion of vast Sums of
Money given by Parliament, are not the only Faults we
have to lay before your Majesty : We beg Leave to add
that unaccountable Advice at *Valencia*, for an Offensive
War at that time in *Spain*, and approved of here, notwithstanding
it is well-known how few Troops we had in
Spain, even with the Addition of those sent with the Earl
Rivers, and the fatal Battle of *Almanza* that ensued, the
Steps that led to it, and the sad Consequences that attended
it, under which we still labour.

‘ The Earl of *Galway*, Lord *Tyrawley*, and General *Stan-
hope*, insisting in a Conference held at *Valencia* some time
in *January*, 1706-7, in the Presence of the King of *Spain*,
and your Majesty’s Name being used in Maintenance of
their Opinion, for an Offensive War, contrary to the King
of *Spain*’s Opinion, and that of all the general Officers and
public Ministers there (except the Marquis *Das Minas*)
and that Opinion of the Earl of *Galway*, Lord *Tyrawley*,
and General *Stanhope*, being pursued in the Operations of
the following Campaign, was the unhappy Occasion of
the Battle of *Almanza*, and one great Cause of our Mis-
fortunes in *Spain*, and of the Disappointment of the Duke
of *Savoy*’s Expedition before *Tboulon*, concerted with your
Majesty.

‘ And it appears by the Earl of *Sunderland*’s Letters, That
the carrying on the War Offensively in *Spain* was ap-
proved and directed by the Ministers, notwithstanding the
Design of attempting *Tboulon*, which the Ministers at that
time knew was concerted with the Duke of *Savoy* ; and
therefore are justly to be blamed for contributing to all our
Misfortunes in *Spain*, and to the Disappointment of the
Expedition against *Tboulon*.

‘ Before we conclude this humble Address to your Ma-
jesty,

Anno 10 Anne, 1711. jesky, we think ourselves obliged to acquaint your Majesty, that as the Earl of Galway has, in yielding the Post of your Majesty's Troops to the Portuguese in Spain, acted contrary to the Honour of the Imperial Crown of Great Britain, so we find the Earl of Peterborough, during the time he had the Honour of commanding the Army in Spain, did perform many great and eminent Services, and if the Opinion he gave in the Council of War at Valencia had been followed, it might, very probably, have prevented the Misfortunes that have since happened in Spain.

Having laid before your Majesty this faithful Representation of the Mismanagements of those Persons entrusted with your most important Affairs, and to whose Councils and Conduct the fatal Miscarriages of the War in Spain are, in great measure, to be imputed, we have an entire Confidence, that your Majesty will give such Orders, and take such Measures, with regard to our present Circumstances, as may retrieve the bad Effects of that unhappy Management to the Advantage of the common Cause, and to the obtaining a safe and honourable Peace.'

The 13th, a joint * Address of both Houses was presented to her Majesty, on Occasion of Mr. Harley's being wounded by Guiscard; which see in CHANDLER's Hist. *Anno 9 Anne, 1710, Page 194.*

Death of the Emperor Joseph. April the 20th, The Queen communicated the Death of the Emperor Joseph, by a Message, to both Houses; and that she had agreed with the States, to use all her Interest, for the electing of King Charles in his Stead.

May the 24th, It was her Majesty Pleasure to create Mr. Harley, Earl of Oxford.

The 25th, He took his Place in the House of Peers.

The 29th, He was honoured with the Treasurer's Staff.

And June the 1st, He took the usual Oaths in the Court of Exchequer; on which Occasion the Lord Keeper address'd himself to his Lordship in the following Speech:

My Lord OXFORD,

Lord Keeper's Speech to him. The Queen, who does every thing with the greatest Wisdom, has given a Proof of it in the Honours she has lately conferred on you; which are exactly suited to your Deserts and Qualifications.

My Lord, the Title, which you now bear, could not have been so justly placed on any other of her Majesty's Subjects.

* It was reported, about this Time, that all the Lords, in the Interest of the late Ministry, except one, left the House, when this Address was moved for.

Subjects. Some of that ancient Blood, which fills your Veins, *Anno 10 Annae;*
is derived from the *Veres*: And you have shewed yourself as
ready to sacrifice it for the Safety of your Prince, and the
Good of your Country and as fearless of Danger, on the
most trying Occasions, as ever any of that brave and loyal
House were.

‘ Nor is that Title less suited to you, as it carries in it a
Relation to one of the chief Seats of Learning: For even your
Enemies, my Lord, (if any such there still are) must own,
the Love of Letters, and the Encouragement of those who ex-
cel in them, is one distinguishing Part of your Character.

‘ My Lord, The high Station of Lord Treasurer of *Great-
Britain*, to which her Majesty has called you, is the just Re-
ward of your eminent Services. You have been the great
Instrument of restoring Public Credit, and relieving this Na-
tion from the heavy Pressure and Ignominy of an immense
Debt, under which it languished; and you are now entrusted
with the Power of securing us from a Relapse into the same
State out of which you have rescued us.

‘ This great Office, my Lord, is every way worthy of
you. Particularly on the Account of those many Diffi-
culties with which the faithful Discharge of it must be un-
avoidably attended, and which require a Genius, like yours,
to master them. The only Difficulty, which even you, my
Lord, may find almost insuperable, is, how to deserve better
of the Crown, and Kingdom, after this Advancement, than
you did before it.’

*June the 12th, The Queen came to the House of Peers,
and put an End to the Session with a Speech to both Houses,
which see in CHANDLER’s History, Anno 10 Annae, 1711,
Page 225.*

Notwithstanding the Removes at Home, the Duke of *Marlborough* having been made easy in his Command Abroad, *Operations of the Campaign,*
took the Field as usual; and passed the *French* Lines at *Ar-
leux* and *Bac-a-Bacheul* without Opposition, *August 5, N. S.* After which he invested *Bouchain*, and in the midst of Diffi-
culties, believed to be almost inseparable, obliged the Gar-
rison to surrender at discretion, in sight of the *French* Army, who durst not venture to make any Motion for their Re-
lief. But in the mean while Mr. *Mesnager* coming over to
England with Proposals of Peace, *Mareschal Tallard* was
permitted to go Home on his Parole for four Months, and *Congress ap-
Utrecht* was appointed for a Place of *Congress*; which was pointed at
to be opened *Jan. 1, O. S.* *Utrecht.*

Anno 20 Anne,

1711.

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The SECOND SESSION of the Third Parliament of GREAT BRITAIN

WAS opened by her Majesty, December the 7th, with a Speech to both Houses, which see in CHANDLER's *History, Anno 20 Anne, 1711, Page 227.*

As soon as her Majesty had ended her Speech she retired to her Dressing Room, and having pull'd off her Royal Robes, came back into the House of Peers incog. both to hear, and, by her Presence, to moderate the Heats of the Debates.

The Queen stays in the House incog.

Debate about a Clause offer'd by the Earl of Nottingham.

And inserted in the Address.

Lords Address to the Queen.

A Motion for an Address of Thanks for her Majesty's Speech having been made, the Earl of Nottingham proposed a Clause to be inserted in the said Address, to represent to her Majesty, as the humble Opinion and Advice of the House, that no Peace can be safe or honourable to *Great Britain or Europe*, if *Spain and the West Indies* are to be allotted to any Branch of the House of Bourbon: Which occasioned a very high Dispute, that lasted till near seven of the Clock; when the previous Question being put, Whether the Question should be put upon the Clause in Debate? It was carried in the Affirmative, by one single Vote; and the main Question being afterwards put, it was also carried in the Affirmative by a Majority of sixty-two Votes to fifty-four. It was by many expected, that the Court-Lords would, the next Day, have the Majority; and that the Clause beforementioned would be left out, but the Committee appointed to draw up the Address having reported the same, a Motion being made, and the Question put, That the Consideration of the said Clause might be put off till the absent Peers were come up, it was carried in the Negative, by a Majority of twenty two Votes. On Tuesday the 11th of December, the House of Lords waited on the Queen with their Address, which was as follows:

WE, your Majesty's most dutiful and loyal Subjects, the Lords spiritual and temporal in Parliament assembled, do, with Hearts full of Gratitude and Loyalty to your Sacred Majesty, beg Leave to return your Majesty our most humb'e and hearty Thanks and Acknowledgments for your Majesty's most tender and affectionate Concern for all your People, express'd in your Majesty's most gracious Speech from the Throne; and for imparting to us your Majesty's Desires for ending this present War by a Peace advantageous to your Subjects, and just and honourable for your Majesty and all your Allies; as also for your Ma- jesty's

• Where Sir Simon Harcourt, Lord Keeper, now late a Baron.

‘Majesty’s expressing so particular a Regard for the Interest of *Anno 16 Anne*,
 ‘the *States General*, as inseparable from your own ; and that 1711.
 ‘your Majesty is graciously pleased to assure us, it is your
 ‘chief Concern, that the Protestant Religion, and the Laws
 ‘and Liberties of these Nations, may be continued to your
 ‘People, by securing the Succession to the Crown, as it is li-
 ‘mited by Parliament, to the House of *Hanover* ; and that
 ‘your Majesty is pleased to shew so just a Resolution to pro-
 ‘cure a Satisfaction for all the Allies, being by Treaties en-
 ‘titled to have their several Interests secured at a Peace, and
 ‘to unite them in the strictest Engagements, in order to
 ‘render the Peace secure and lasting.

‘And we do beg Leave to represent it to your Majesty, as
 ‘the humble Opinion and Advice of this House, that no
 ‘Peace can be safe or honourable to *Great Britain*, or *Europe*,
 ‘if *Spain* and the *West-Indies* are to be allotted to any Branch
 ‘of the House of *Bourbon*.’

Her Majesty’s Answer was to this Effect :

My Lords,

‘I Take the Thanks you give me kindly. I should be *The Queen’s*
 ‘sorry any one could think I would not do my utmost Answer.
 ‘to recover *Spain* and the *West-Indies* from the House of
 ‘*Bourbon*.’

On Occasion of this Address the following Protest was entered :

*Dissentient**

We dissent to the Address, because the Nature of it is Protest occa-
 changed, by the Insertion of the last Clause, from that of an sioned by the
 Address of Thanks ; neither have we had any thing parlia-
 mentary from the Throne, or otherwise laid before us,
 whereon to ground such Advice as is therein contained.

And we look upon it as an Encroachment on the Royal
 Prerogative, in so hasty a Manner to declare our Opinions,
 and on no better Grounds, in a Thing so essentially belong-
 ing to the Crown as making of Peace and War.

*Beaufort, Osborn, P. St. Davids, Starwell, Hatton, * Job.*
Bristol, C. P. S. Willoughby de Broke, Clarendon, Den-
bigb, T. Chichester, Northumberland, Yarmouth, Plymouth,
Delawar, Sussex, Tbanet, Berkshire, North and Grey,
Scarsdale, Cardigan.

The Duke of *Hamilton*, one of the fifteen Peers for *Scot-*
Land, having some Months before been created a Peer of *Great*
Britain, by the Stile and Title of Duke of *Brandon*, not-
 with-

● Dr. Robinson, Lord Privy-Seal.

Anno 10 Anne, notwithstanding a Caveat entered against his Patent; and now
1711.

Debate about the Duke of Hamilton's Case, as to his Title of Duke of Brandon.

many Lords, who apprehended no small Danger to our Constitution, from the admitting into their House a greater Number of Scotch Peers than were agreed to by the Union, upon a due Consideration of the Proportion of public Taxes paid by Scotland, resolved to oppose the said Claim. Hereupon, on Monday, the 10th of December, a Motion was made for taking that Matter into Consideration, which was done accordingly; but after a few Speeches the Debate was adjourned to the Wednesday following. Some Court-Lords, who were sensible that the discussing of this Affair would strike at the Royal Prerogative, made that Day a Motion for adjourning, but it was carried by a Majority of three Voices only, that they should go on with the resumed Debate about the Duke of Hamilton's sitting in the House as Duke of Brandon. However, after some Time spent therein, the further Consideration of that Business was put off till the 20th.

Bill of Occasional Conformity brought in by the Earl of Nottingham.

Earl of Scarborough.
Earl of Whar-

ton.

The said Bill sent to the Commons.

On Saturday the 15th of December, the Earl of Nottingham having brought into the House of Peers a Bill for preserving the Protestant Religion, by better securing the Church of England as by Law established, and for confirming the Toleration granted to Protestant Dissenters, by an Act entitled, An Act for exempting their Majesty's Protestant Subjects, dissenting from the Church of England, from the Penalties of certain Laws, and for supplying the Defects thereof; and for the further securing the Protestant Succession, by requiring the Practisers of the Law, in North Britain, to take the Oaths, and subscribe the Declaration therein mentioned. His Lordship was backed by the Earls of Scarborough and Wharton, and several other Lords; so that the Bill was received and read the first Time, without any Opposition. The Monday following, after the second reading of the Bill, the Lords took the same into Consideration, in a grand Committee, and having made some Amendments to it, ordered it to be engrossed. The next Day the Bill having passed the House of Lords, was sent down to the Commons, who read it immediately the first Time, and gave it a second reading the next Day. On the Thursday, a Petition, was offered to the House on behalf of the Dutch and French Protestant Churches, praying that they might be excepted from the Restraints laid by this Bill on English Dissenting Congregations; but the Question being put, that the Petition be brought up, it passed in the Negative: After which the Commons, in a Committee of the whole House, (which that Morning was very thin) made several Amendments to

the Bill. These Amendments being immediately reported *Anno 10 Anne,*
and agreed to, the Bill was thereupon sent back to the House
of Peers; who, the same Day, sent down a Message to the
Commons to acquaint them, that they had agreed to those
Amendments. The Bill so amended is as follows:

1711.

“ Whereas an Act was made in the thirteenth Year of the Reign of the late King *Charles II.* entitled, An Act for the well-governing and regulating of Corporations; and another Act was made in the five and twentieth Year of the Reign of the said late King *Charles II.* entitled, An Act for the preventing Dangers which may happen from Popish Recusants; both which Acts were made for the Security of the Church of *England*, as by Law established: Now, for the better securing the said Church, and quieting the Minds of her Majesty’s Protestant Subjects dissenting from the Church of *England*, and rendering them secure in the Exercise of their religious Worship, as also for the further strengthening the Provision already made for the Security of the Succession to the Crown in the House of *Hanover*, Be it enacted by the Queen’s most excellent Majesty, by and with the Advice and Consent of the Lords spiritual and temporal, and Commons, in Parliament assembled, and by the Authority of the same, That if any Person or Persons, after the five and twentieth Day of *March*, which shall be in the Year of our Lord 1712, either Peers or Commoners, who have or shall have an Office or Offices, civil or military, or receive any Pay, Salary, Fee, or Wages, by reason of any Patent or Grant from or under her Majesty, or any of her Majesty’s predecessors, or of her Heirs or Successors, or shall have any Command or Place of Trust from or under her Majesty, her Heirs or Successors, or from any of her Majesty’s Predecessors, or by her or their Authority, or by Authority derived from her or them, within that Part of *Great Britain* called *England*, the Dominion of *Wales*, or Town of *Berwick on Tweed*, or in the Navy, or in the several Islands of *Jersey* or *Guernsey*, or shall be admitted into any Service or Employment in the Household or Family of her Majesty, her Heirs or Successors; or if any Mayor, Alderman, Recorder, Sheriff, Town-Clerk, Common-Council Man, or other Person, bearing any Office of Magistracy, or Place, or Trust, other Employment relating to or concerning the Government of any the respective Cities, Corporations, Boroughs, Cinque-Ports, and their Members, or other Port-Towns within that Part of *Great Britain* called *England*, the Dominion of *Wales*, Town of *Berwick*, or either of the Isles aforesaid, who by the said recited Acts, or either of them, were

Anno 10 Annæ, were or are obliged to receive the Sacrament of the Lord's Supper, according to the Rites and Usage of the Church of *England*, as aforesaid, shall at any time after their Admission into their respective Offices or Employments, or after having such Patent or Grant, Command, or Place of Trust, as aforesaid, during his or their Continuance in such Office or Offices, Employment or Employments, or having such Patent, or Grant, Command or Place of Trust, or any Profit or Advantage from the same, knowingly or willingly resort to, or be present at any Conventicle, Assembly or Meeting within *England*, *Wales*, *Berwick upon Tweed*, or the Isles aforesaid, for the Exercise of Religion in other manner than according to the Liturgy and Practice of the Church of *England* in any Place within that Part of *Great Britain* called *England*, Dominion of *Wales*, and Town of *Berwick upon Tweed*, or the Isles aforesaid, at which Conventicle, Assembly, or Meeting, there shall be ten Persons or more assembled together, over and besides those of the same Household, if it be in any House where there is a Family inhabiting, or if it be in an House or Place where there is no Family inhabiting, then where any such ten Persons are so assembled, as aforesaid, or shall knowingly and willingly be present at any such Meeting in such House or Place, as aforesaid, altho' the Liturgy be there used, where her Majesty (whom God long preserve) and the Princess *Sophia*, or such others as shall from time to time be lawfully appointed to be prayed for, shall not there be prayed for in express Words, according to the Liturgy of the Church of *England*, except where such particular Offices of the Liturgy are used, wherein there are no express Directions to pray for her Majesty and the Royal Family, shall forfeit forty Pounds, to be recovered by him or them that shall sue for the same, by an Action of Debt, Bill, Plant, or Information, in any of her Majesty's Courts at *Westminster*, wherein no Essoign, Protection, or Wager of Law shall be allowed, or any more than one Impariment.

“ And, be it further enacted, That every Person convicted in any Action to be brought, as aforesaid, or upon any Information, Presentment or Indictment in any of her Majesty's Courts at *Westminster*, or at the Assizes, shall be disabled from thenceforth to hold such Office or Offices, Employment or Employments, or to receive any Profit or Advantage by reason of them, or of any Grant, as aforesaid, and shall be adjudged incapable to bear any Office or Employment whatsoever, within that Part of *Great Britain* called *England*, the Dominion of *Wales*, or the Town of *Berwick upon Tweed*, or the Isle of *Jersey* or *Guernsey*.

Provide

“ Provided always, and be it further enacted, by the Anno 10 Anne, Authority aforesaid, That if any Person or Persons, who shall have been convicted, as aforesaid, and thereby made incapable to hold any Office or Employment, or to receive any Profit or Advantage by reason of them, or of any Grant, as aforesaid, shall, after such Conviction, conform to the Church of *England*, for the Space of one Year, without having been present at any Conventicle, Assembly, or Meeting, as aforesaid, and receive the Sacrament of the Lord’s Supper, according to the Rites and Usage of the Church of *England*, at least three times in the Year, every such Person or Persons shall be capable of the Grant of any the Offices or Employments aforesaid.

1711.

“ Provided also, and be it further enacted, That every such Person so convicted, and afterwards conforming, in Manner, as aforesaid, shall, at the next Term after his Admission into any such Office or Employment, make Oath, in Writing, in some one of her Maj:ty’s Courts at *Westminster*, in public and open Court, or at the next Quarter-Sessions for that County or Place where he shall reside, between the Hours of nine and twelve in the Forenoon, That he hath conformed to the Church of *England* for the Space of one Year, before such his Admission, without having been present at any Conventicle, Assembly, or Meeting, as aforesaid, and that he hath received the Sacrament of the Lord’s Supper, at least three times in the Year; which Oath shall be there enrolled and kept upon Record.

“ Provided. That no Person shall suffer any Punishment for the Offence committed against this Act, unless Oath be made of such Offence, before some Judge or Justice of the Peace (who is hereby empowered and required to take the said Oath) within ten Days after the said Offence committed, and unless the said Offender be prosecuted for the same within three Months after the said Offence committed; nor shall any Person be convicted of any such Offence, unless upon the Oaths of two credible Witnesses at the least.

“ Provided always, That this Act, or any thing therein contained, or any Offence against the same, shall not extend or be judged to take away or make void an Office of Inheritance; nevertheless, so as such Person having or enjoying such an Office of Inheritance, do or shall substitute and appoint his sufficient Duputy (which such Officer is hereby empowered from Time to Time, to make or change any former Law or Usage to the contrary notwithstanding) to exercise the said Office, until such Time as the Person having such Office, shall conform, as aforesaid.

“ And it is hereby further enacted and declared by the

Anno 10 Anne, 1711. Authority aforesaid, that the Toleration granted to Protestant Dissenters by the Act made in the first Year of the Reign of King *William* and Queen *Mary*, entitled, *An Act for exempting their Majesties Protestant Subjects, dissenting from the Church of England, from the Penalties of certain Laws, shall be, and is hereby ratified and confirmed, and that the same Act shall at all Times be inviolably observed, for the exempting of such Protestant Dissenters as are hereby intended, from the Pains and Penalties therein mentioned.*

“ And for the rendering the said last-mentioned Act more effectual, according to the true Intent and Meaning thereof, Be it further enacted and declared by the Authority aforesaid, That if any Person dissenting from the Church of *England*, (not in Holy Orders, or pretended Holy Orders, or pretending to Holy Orders, nor any Preacher or Teacher of any Congregation) who should have been entitled to the Benefit of the last mentioned Act, if such Person had duly taken, made, and subscribed the Oaths and Declaration, or otherwise qualified him or herself, as required by the said Act, and now is or shall be prosecuted upon or by virtue of any of the Penal Statues, from which Protestant Dissenters are exempted by the said Act, shall at any Time, during such Prosecution, take, make, and subscribe the said Oaths and Declaration, or being of the People called Quakers, should make and subscribe the aforesaid Declaration, and also the Declaration of Fidelity, and subscribe the Profession of their Christian Belief according to the said Act, or before any two of her Majesty’s Justices of the Peace (who are hereby required to take and return the same to the next Quarter-Sessions of the Peace, to be there recorded) such Person shall be, and is hereby entitled to the Benefit of the said Act, as fully and effectually as if such Person had duly qualified himself within the Time prescribed by the said Act, and shall be thenceforth exempted and discharged from all the Penalties and Forfeitures incurred by force of any the aforesaid Penal Statutes.

“ And whereas it is or may be doubted whether a Preacher or Teacher of any Congregation of dissenting Protestants, duly in all Respects qualified according to the said Act, be allowed by virtue of the said Act, to officiate in any Congregation or Place of Meeting, duly certified and register’d as is required by the Act: Be it declared and enacted by the Authority aforesaid, That any such Preacher or Teacher, so duly qualified according to the said Act, shall be and is hereby allowed to officiate in any Congregation, although the same be not in the County wherein he was so qualified; provided that the said Congregation, or Place of Meeting, had been, before such officiating, duly certified and registered or recorded.

recorded according to the said Act: And such Preacher or Teacher, shall, if required, produce a Certificate of his having so qualified himself, under the Hand of the Clerk of the Peace for the County or Place where he so qualified himself, which Certificate such Clerk of the Peace is hereby required to make; and shall also before any Justice of the Peace of such County or Place where he shall so officiate, make and subscribe such Declaration, and take such Oaths as are mentioned in the said Act, if thereunto required.

1711.

“ And be it further enacted by the Authority aforesaid, that on or before the 15th of June next, all Advocates, Writers to the Signet, Notaries Public, and other Members of the College of Justice, within that Part of her Majesty's Kingdom of Great Britain called Scotland, shall be, and are hereby obliged to take and subscribe the Oath appointed by the Act of the 6th Year of her Majesty's Reign, entitled, An Act for the better Security of her Majesty's Person and Government, before the Lords of Sessions of the aforesaid Part of her Majesty's Kingdom, except such of the said Persons who have already taken the same: And if any of the Persons aforesaid, do or shall neglect, or refuse to take and subscribe the said Oath as aforesaid, such Person shall be *ipso facto* adjudged incapable, and disabled in Law to have, enjoy, or exercise in any manner his said Employment or Practice.

“ And be it further enacted by the Authority aforesaid, that in all Time coming, no Person or Persons shall be admitted to the Employment of Advocate, Writer to the Signet, Notary Public, or any Office belonging to the said College of Justice, until he or they have taken and subscribed the aforesaid Oath, in manner as is above directed.”

The same Day (December the 20th) the Lords resumed Debate about the adjourned Debate about the Duke of Hamilton's Claim to sit in that August Assembly, as Duke of Brandon, by virtue of his late Patent; the Queen being, *incog.* in the House. After learned Council in the Law for the Queen, the House of Lords, and the Duke of Hamilton, had been heard, several Speeches were made on both Sides, so that the Debate lasted till near eight of the Clock in the Evening, when the Question was put, Whether the Twelve Judges should be consulted with? Which being carried in the Negative by fourteen Voices, Proxies included, another Question was put, Whether Scotch Peers, created Peers of Great Britain since the Union, have a Right to sit in that House, which was also carried in the Negative by * five Voices.

the Duke of
Hamilton's
Patent.

On which Occasion was entered the following Protest:

Dissentient

Two Questions
pas'd in the
Negative, and
Protest thereon.

Anno 16 Anne,

1711.

Protest thereon.

Dissentient'

1st, Because, as we apprehend, by this Resolution, the Prerogative of the Crown in granting Patents of Honour, with all Privileges depending thereon, to the Peers of Great Britain, who were Peers of Scotland at the Time of the Union, as well as the Right of the Duke of Branden to sit and vote in Parliament, are taken away; and this Prerogative of the Crown, and Right of the Duke, depending upon the Construction of an Act of Parliament, tho' Council, by Order of the House, were heard at the Bar, and all the Judges were ordered to attend at the same time, yet the Opinion of the Judges was not permitted to be asked touching the Construction of the said Act of Parliament.

2^{dly}, Because the Prerogative of the Crown, as we conceive, in granting Patents of Honour, with the Privileges depending thereon, ought not, on the Construction of any Act of Parliament, to be taken away, unless there be plain and express Words to that Purpose in the said Act; and, we conceive, there are no such plain and express Words for that Purpose in the Act of Union.

3^{dly}, Because, by this Resolution, all the Peers of Great Britain, who were Peers of Scotland at the Time of the Union, are supposed to be incapable of receiving any Patent of Honour from the Crown, by virtue whereof they may be entitled to the Privileges of sitting and voting in Parliament, and sitting on the Trial of Peers; which, we conceive, is repugnant to the fourth Article of the Act of Union, which declares the Privileges and Advantages which do or may belong to the Subjects of either Kingdom, except where it is otherwise expressly agreed in those Articles, in which, we apprehend, there is no such Provision.

4^{thly}, Because the Duke of Queensberry, in all Respects, in the same Case as the Duke of Hamilton, was introduced, sat and voted in this House in Matters of the highest Importance, in two several Parliaments, as Duke of Dover, by virtue of a Patent passed since the Union; and in consequence of such sitting and voting, his Vote in the Election of Peers of Scotland was rejected; and as a further Consequence thereof, the Marquis of Lothian was removed from his Seat in this House, which he had an indeniable Title to, if the Duke of Queensberry's Patent, as Duke of Dover, had not given him a Title to sit and vote in this House.

5^{thly}, Because, by this Resolution, the Peers of Scotland are reduced to a worse Condition, in some Respects, than the meanest or most criminal of Subjects.

6^{thly}, Because, we conceive, this Resolution may be construed to be a Violation of the Treaty between the two Nations.

Win-

Winchelsea, Ormond, Balmerino, Clarendon, Oxford and Anno 10 Anne,
 Mortimer, Boyle, Kylsyth, Rivers, Blantyre, Hunsdon, 1711.
 Paulett, Harcourt, C. S. Hume, Mar, Loudoun, Osborne,
 Roseberrie, Ista, Orkney.

The Queen being at this Time somewhat indisposed, her Majesty granted a Commission under the Great Seal, empowering the Lord Keeper, the Lord President of the Council, and other Lords, to give the Royal Assent to the two Bills agreed to by both Houses of Parliament, *viz.* the Land-Tax Bill, and the Act for preserving the Protestant Religion: Which their Lordships did accordingly on the 22d of December, having sent a Message to the House of Commons by the Gentleman-Usher of the Black Rod, to desire that House to come up to the House of Peers, to be present at the passing the said Bills. The Commons being returned to their House, immediately adjourned to the 14th of January next; and it being expected that the House of Peers would do the same, many Lords went out of the House, but the Majority of those that staid, resolved to present an Address to the Queen importing in Substance, ' That her Majesty would be pleased ^{Address relating} to give Instructions to her Plenipotentiaries, (in case she to the Peace.
 ' has not already given such Orders) to consult with the Ministers of the Allies in Holland before the Opening of the Congress; that they concert the necessary Measures to serve a strict Union amongst them all, the better to obtain the great End proposed by her Majesty, for procuring to them all a just and reasonable Satisfaction, and for rendering the Peace more secure and lasting, which can only be effected by a general Guarantee of the Terms of the Peace to all the Allies, and of the Protestant Succession to these Kingdoms, as settled by Act of Parliament.'

Their Lordships having ordered the Lords with the White Staves to present this Address, adjourned no longer than to the 2d of January next. However, the Address being, according to Order, presented to the Queen on the 27th of December, her Majesty was pleased to make a gracious Answer, importing in Substance, " That she had given Instructions to that Purpose already." The Queen's Answer.

The Court Party in the House of Lords having appeared the weaker in the Business of the Duke of Brandon, whose Disappointment had given no small Disgust to the Scotch Nobility; it was resolved to strengthen it by the Creation of several new Peers; the rather, because it was apprehended at the same time, that some vigorous Resolution would be taken against a certain Man. Hereupon, besides the calling ^{Twelve new} Peers created by Writ to the House of Lords, James Lord Compton, eldest Son

Anno 10 Anne, Son to *George Earl of Northampton*, and *Charles Lord Bruce*, eldest Son to *Thomas Earl of Ailesbury*, her Majesty was pleased, on the last Day of * December, to sign Patents creating the ten following Persons Peers of Great Britain, viz.

George Hay, Esq; one of the four Tellers of the Receipt of her Majesty's Exchequer, *Baron Hay of Bedwarden* in the County of *Hereford*.

Thomas Lord Viscount Windsor, in the Kingdom of *Ireland*, *Baron Mountjoy of the Isle of Wight*, in the County of *Southampton*.

Henry Pagett, Esq; Son and Heir Apparent of *William Lord Pagett, Baron Burton of Burton*, in the County of *Stafford*.

Thomas Mansel, of Margam in the County of *Glamorgan*, Bart. *Baron Mansel of Margam*, in the County of *Glamorgan* aforesaid.

Sir Thomas Wollaton, in the County of *Nottingham*, Bart. *Baron Middleton of Middleton*, in the County of *Warwick*.

Sir Thomas Trevor, Knt. Chief Justice of her Majesty's Court of Common Pleas, *Baron Trevor of Bromham*, in the County of *Bedford*.

George Granville of Stow in the County of *Cornwall*, Esq; *Baron Lansdowne of Biddiford*, in the County of *Devon*.

Samuel Masham of Oates in the County of *Essex*, Esq; *Baron Masham of Oates*, in the County of *Essex* aforesaid.

Thomas Foley of Witley in the County of *Worcester*, Esq; Baron

* The next Day, viz. January the first, It was declared at Court, that the Duke of Ormond had the first Regiment of Foot-Guards, commanded by the Duke of Marlborough, bestow'd upon him ; and, three Days after, it was publickly made known in the Gazette, that her Majesty had been pleas'd to constitute his Grace the Duke of Ormond Commander in Chief of all her Majesty's Land-Forces in that Part of the Kingdom of Great Britain, called England ; that the Duke of Northumberland was appointed Captain and Colonel of her Majesty's second Troop of Horse-Guards, in the Room of the Duke of Ormond ; and the Earl Rivers made Master General of her Majesty's Ordnance, in the Room of the Duke of Marlborough, and Colonel of her Majesty's Royal Regiment of Horse-Guards, in the Room of the Duke of Northumberland. The Duke of Ormond seeming unwilling to accept the Command of the Forces in England only, the Queen was, a few Days after, pleased to sign another Commission, appointing his Grace Commander in chief of all her Majesty's Forces in Great Britain. On the eleventh of January, the Duke of Beaufort was appointed Captain of the Band of Pensioners, in the Room of the Duke of St Albans : About the same time Thomas Harley, Esq; Cousin to the Lord High-Treasurer, and Co-adjutor to the Secretary of the Treasury, was named to go to Hanover, with a secret Commission ; and, towards the end of February, the Queen thought fit to sign a Commission, appointing the Duke of Ormond Captain-General of all and singular her Majesty's Forces, raised or to be raised and employed in the Service, within the Kingdom of Great Britain, or which are or shall be employed abroad, in Conjunction with the Troops of her Allies.

Baron Foley of Kidderminster, in the said County of Wor- Anno 18 Anne,
1711-12.
dster. And

Allen Bathurst of Battlesden in the County of Bedford, Esq; 
Baron Bathurst of Battlesden, in the County of Bedford afore-
said.

January the 2d, The Lords being met, according to the last Adjournment, the twelve new Peers were introduced and The new Lords admitted without any * Difficulty ; and after the reading of their Patents, (the Preambles of which were short, and al- most the same, except that of the Lord Masham) they took their Seats in the House. The Lords with the White Staves

introduced into
the House of
Peers.

did afterwards report to their last Address, about the Negotiation at Utrecht ; importing in Substance, " That her Majesty

" thought her Speech to both Houses would have given Sa-
tisfaction to every body ; and that she had given Instruc-

The Queen's
Answer to the
Lords Address
about the Negoti-
ation of Peace.

" tions to her Plenipotentiaries, according to the Desires of this Address." This done the Lord-Keeper deliver'd to

the House a Message from the Queen, importing, " That her Majesty having Matters of great Importance to both

her Majesty, de-
firing the Lords
to adjourn.

Houses of Parliament, she desired the House of Lords to adjourn immediately to the 14th Instant," being the same

Day to which the Commons had adjourn'd themselves. Thereupon many Lords cry'd, Adjourn, Adjourn ; but others

tying, No, No : There arose a warm Debate ; and the

Question being put, Whether the House should adjourn :

It was carried in the Affirmative, by a Majority of sixty

With which the
Lords, after De-
bate, comply.

Three Voices present, and eighteen Proxies, against forty nine

Proxies.

The same Day, several of the Scotch Peers present- Representation

to the Queen an humble Representation about the late of the Scotch

Judgment of the Lords in relation to the Validity of the Lords.

Duke of Hamilton's Patent, whereby he was created Duke

Brandon ; to which her Majesty returned the following

Answer :

My Lords,

I Am sorry there should be any Occasion given for this The Queen's

Representation. I am resolved to preserve the Union Answer,

between the two Kingdoms ; and to do my utmost En- deavour to find out the most reasonable Method for your

Satisfaction."

The Court having yet no News of the opening of the

Session, Councils were held on Saturday and Sunday the

15th of January, in which it was debated, Whe- ther

It had been whisper'd, the Day before, that in a Consultation of

Courtiers, it had been proposed, either not to admit the said Lords,

or to protest against their being made during the Session.

Anno 10 Anne, 1711-12. ther the Parliament should be desired further to adjourn themselves? And it being carry'd for the latter, the following Message was, on the 14th, sent to both Houses.

ANNE R.

The Queen's Message to both Houses for a further Adjournment.

“ **H**E R Majesty was fully determined to have been personally present in Parliament this Day, but being prevented by a sudden Return of the Gout, her Majesty, in hopes she may, by the Blessing of God, be able to speak to both her Houses of Parliament, on Thursday next, desires this House may forthwith adjourn itself to Thursday next, the 17th of this Instant *January*.”

And both Houses adjourned accordingly.

Being met again, the Queen sent a second Message to both Houses, which see in *CHANDLER's History, Anno 10 Anne, 1711, Page 243*, except the following Paragraph, which was peculiar to that of the Lords, in lieu of that concerning the Supplies, which was likewise peculiar to the Commons.

A second Message; in which the North Part of this Kingdom are extremely concerned, is a Clause relating to the Case of the Scottish Peers.

“ There is one Thing in which her Majesty's Subjects of the North Part of this Kingdom are extremely concerned, the Distinction such of them who were Peers of *Scotland* before the Union must lie under, if the Prerogative of the Crown is strictly barr'd against them alone. This is a Matter which sensibly affects her Majesty, and she therefore lays it before this House, earnestly desiring their Advice and Concurrence in finding out the best Method of settling this Affair to the Satisfaction of the whole Kingdom.”

Hereupon the Lords resolved to present an Address of Thanks to her Majesty for her gracious Message; and upon a Motion made by the Lord Somers, it was agreed that these Words, ‘ And particularly with relation to *Spain* and the *West-Indies*, the following should be added, *viz.* Which are of so great Concern to the Safety and Commerce of your Majesty's Kingdoms.’ The same Day, upon a Motion made by the Earl of Dartmouth for giving Satisfaction to the Scottish Peers, another Peer said, He should be glad to know what Satisfaction that should be; but all being silent that Business was put off to another Day.

On the 18th of *January*, the House of Lords, in a Body waited on the Queen with the following Address:

The Lords Address of Thanks.

“ **W**E, your Majesty's most dutiful and loyal Subjects the Lords spiritual and temporal in Parliament assembled, beg Leave to express our extreme Concern for the Continuance of your Majesty's Indisposition, by which we were deprived of the Honour of your Royal Presence; a

at the same time beseech your Majesty to accept of the Anno 1711-12.
 most humble Thanks of this House for your most gracious
 Message on the 17th Instant, wherein your Majesty is
 pleased to express your just Care for all your Allies, and the
 strict Union, in which your Majesty proposed to join with
 them in order to obtain a good Peace, and to guaranty and
 support it when obtained ; and for the Instructions your
 Majesty has given to your Plenipotentiaries, to concert the
 most proper Way of procuring a just Satisfaction to all in
 Alliance with your Majesty, according to their several Treaties,
 and particularly with relation to *Spain* and the *West-
 Indies*, which are of so great Concern to the Safety and
 Commerce of your Majesty's Kingdoms.

' We think ourselves obliged more especially to return our
 humblest Acknowledgments for your Majesty's great Con-
 descension in acquainting this House with the Steps already
 taken in relation to the Peace, and for the Assurance your
 Majesty is pleased to give of communicating to this House
 the Terms of the Peace before the same shall be concluded.
 Your Majesty's Declaration, that there has not been the
 least Colour given for those false and scandalous Reports
 that have been spread, that a separate Peace has been
 treated, must be the highest Satisfaction to all your People ;
 and we readily embrace this Opportunity to assure your
 Majesty, that we entirely rely upon your great Wisdom,
 in settling the Terms of Peace.'

Her Majesty's Answer was as follows :

My Lords,

I Return you my most hearty Thanks for this Address,
 and for the Confidence you place in me ; which will
 better enable me to obtain such Terms as may be safe and
 honourable for my own Subjects, and all our Allies."

The Queen's
 Answer.

About the latter End of December a Motion having been made in the House of Lords, by the Duke of *Devonshire*, for settling the Precedence of the most illustrious House of *Hanover* in *Great Britain* : When the Peers sat again on the 17th of January, the Lord High Treasurer, who was glad of an Opportunity to express his Zeal and affection for the Protestant Heir, presented to that House a Bill entitled, *An Act for settling the Precedence of the most excellent Princess Sophia, Electress and Duchess Dowager of Hanover, of the Elector her Son, and of the Electoral Prince Duke of Cambridge*. This Bill was that Day read twice in the Lords ; and the third Time the next Morning ; and

anno 10 Anne, by the Lord Chief Justice Parker, and Mr. Justice Eyre, carried down to the Commons, who read it three Times, without any Interruption, and having resolved that it should pass *Nemine Contradicente*, sent it back to the Lords by Mr. Secretary St. John.

On Monday the 21st of January, the Lords took into Consideration that Part of the Queen's Message of the 17th of the same Month, relating to the Scotch Peers made Peers of Great Britain, and amongst other Expedients, it was proposed, that her Majesty should create sixteen Hereditary Peers to represent the Nobility of Scotland in the British Parliament, being the Number agreed on by the Act of Union: But this Project being liable to many Inconveniences, no great Stress was laid upon it; and after a small Debate that Affair was put off 'till the 25th. That Day their Lordships resumed the Debate about the Duke of Hamilton's Patent, and resolved that that Matter was cognizable by this House only; and then adjourn'd it again to the 31st of January, when it was dropp'd: By which it appears, that their Lordships adhered to their former Judgment.

The Affair about the Duke of Hamilton's Patent drop'd.

Proceedings on the Bill in favour of Episcopal Communion in Scotland.

On the 13th of February, the House of Peers, before they proceeded to the second reading of the Bill passed by the Commons in favour of those of the Episcopal Communion in Scotland, heard Council in behalf of the Presbyterians of that Part of Great Britain, who opposed the said Bill. The Lawyers alledged in general, that this Bill annulling an Act ratified by the Treaty of Union, might be attended with very fatal Consequences: And then made particular Objections to the Bill itself, as that it granted Toleration to all Episcopal Ministers, under colour whereof, popish Priests might pretend to perform the Romish Service in Scotland. The Council having done pleading, the Bill was read a second Time, and committed to a Committee of the whole House, into which the Lords resolved themselves the same Day. The Lord

Lord Halifax. *Halifax* and the Bishop of Salisbury endeavoured to shew the Inconveniences and Danger of such a Bill, especially this Juncture: And after some other Lords had made Speeches pro and con, it was resolved to add several Clauses to the Bill, particularly for limiting the Toleration to such Ministers, as have received Holy Orders from the Hands of a Protestant Bishop, and who have taken and subscribed Oaths of Allegiance and Abjuration; as also for obliging the Ministers of the Established Church of Scotland, to take and subscribe the said Oaths. On the 15th, these Amendments were reported, and agreed to by the House of Lords, who the next Day sent down the Bill to the Commons: the latter having taken these Amendments into their Consideration.

deration, agreed to them, with a small Amendment of their ^{Anno 10 Anne,} own, to which the Lords also agreed. ^{1711-12.}

The French Plenipotentiaries at the Congress of *Utrecht*, about this Time, delivered their Proposals in Writing, as follows ;

A Specific Explanation of the Offers of *France* for a general Peace, to the Satisfaction of all the Parties concerned in the present War.

THE King will acknowledge at the signing of the Specific Explanation of the Peace, the Queen of *Great Britain* in that Quality, ^{nation of the} as also the Succession of that Crown according to the present Settlement, and in the Manner her *Britannic* Majesty shall please. ^{Offers of France.}

His Majesty will cause all the Fortifications of *Dunkirk* to be demolished immediately after the Peace, provided an Equivalent be given him to his Satisfaction.

The Island of *St. Christopher*, *Hudson's Bay* and *Strait* of that Name, shall be yielded up entire to *Great Britain*; and *Acadie*, with *Port Royal* and the *Fort*, shall be restored entire to his Majesty.

As to the Island of *Newfoundland*, the King offers to yield up that also to *Great Britain*, reserving only to himself the *Fort* of *Placentia*, and the Right of catching and drying Fish, as before the War.

It shall be agreed to make a Treaty of Commerce before or after the Peace, as *England* shall chuse, the Conditions of which shall be made as equal between the two Nations as they can possibly.

The King will consent at the signing the Peace, that the *Spanish Netherlands*, which are given over to the Elector of *Bavaria* by the King of *Spain*, shall serve for a Barrier to the United Provinces; and to augment it, he will join thereto *Furnes* and the *Furner Ambacht* or District, *Knock*, *Ypres*, and the *Castellany of Menin*, with its *Verge*: In Exchange, his Majesty demands to form the Barrier of *France*, *Aire*, *St. Venant*, *Bethune*, *Douay*, and their Dependancies.

If the *States General* are desirous to keep Garrisons in the fortified Towns of the Barrier so formed of the Dominions transferred to his Electoral Highness, and of what *France* adds thereto of its own, his Majesty consents, that they shall put their Troops into them in as great Number as they please; and besides, that they shall be maintained at the Expence of the Country.

In Consideration of this Cession, and of this Consent, the King, on his Side, demands, as an Equivalent for the demolishing

Anno 10 Anne, molishing of Dunkirk, the Towns and Citadels of Lille and Tournay, with their Castellanes and Dependancies.

1711-12. " The Barrier thus regulated between *France* and the *States General*, the King will grant for augmenting the Commerce of their Subjects, what is stipulated by the Treaty of *Ryswick*, and the advantageous Tarif of 1664, with an Exception only of six Sorts of Merchandize which shall be agreed on, and which be charged with the same Duties that are paid at this Time ; as also the Exemption of 53 Sols per Tun on the *Dutch* Shipping that come into *France* from the *United Provinces* and foreign Countries.

" As to the Commerce of *Spain* and the *Indies*, the King will engage, not only to the *States General*, but likewise to her *Britannic Majesty*, and to all the other Potentates, by virtue of the Power he has in this Particular, that the said Commerce shall be allowed exactly, and carried on in the very same Manner as it was, under the Reign, and till the Death of *Charles II.* and will promise, that the *French* shall submit, as all the other Nations, to the antient Laws and Regulations made by the King his Catholic Majesty's Predecessors, with respect to the Commerce and Navigation of the *Spanish Indies*,

" His Majesty further consents, that all the Potentates of *Europe* may enter into the Guaranty of this Promise. His Majesty promises, that the King his Grandson shall renounce, for the Sake of the Peace, all Pretensions to the Kingdom of *Naples* and *Sardinia*, as well as to the *Dutchy of Milan* ; in whose Name he will consent, that the Part of that *Dutchy* which is made over to the Duke of *Savoy*, shall remain to his Royal Highness : Provided, that, in Consideration of this Cession, the House of *Austria* do, in like manner, desist from all Pretensions to the other Parts of the Monarchy of *Spain*, from whence that House shall withdraw their Troops immediately after the Peace.

" The Frontiers on both Sides, upon the *Rhine*, shall be settled on the same Condition as they were before the present War.

" In Consideration of all the Terms above specified, the King demands that the Electors of *Cologn* and *Bavaria* shall be re-established in the full and entire Possession of their Dominions, Dignities, Prerogatives, Goods moveable and immoveable, which they enjoyed before this present War : And reciprocally, his Majesty will recognize in *Germany* and *Prussia*, all the Titles which he has not yet acknowledged.

" The King will restore to the Duke of *Savoy* what he has taken from him during this War ; as in like manner his Royal

Royal Highness shall restore to him what he has taken from *France* ; so that the Limits on both Sides shall be the same they were before the Declaration of War.

Anno 10 Anno,
1711-12.

‘ All things, as to *Portugal*, shall be re-established, and remain on the same Foot in *Europe* that they were before the present War, as well with regard to *France* as to *Spain* ; and, as to the Dominions that Crown hath in *America*, if there be any Differences to settle, Endeavours shall be used to agree them amicably.

‘ The King will consent freely, and, *bona fide*, to take, in Concert with the Allies, all the most just Measures, for hindering the Crowns of *France* and *Spain* from being ever united on the same Head ; that is to say, that one and the same Prince shall never be at once King of both.

‘ All preceding Treaties, that is, those of *Munster*, and others that have been made since, shall be repeated and confirmed, to remain in their Force and Virtue ; excepting only such Articles, from which the Treaty of Peace now to be made, shall derogate, or alter something.

Signed HUX E L L E S.

February the 15th, The Lord *Hallifax* made a Motion in the House of Lords, for presenting an Address to the Queen, about the specific Offers of *France*, which his Lordship called, trifling, arrogant, and injurious to her Majesty and her Allies. He was seconded by several Peers, of both Parties, who said, in Substance, ‘ That those Propositions ought to be rejected with the utmost Indignation ; that it plainly appeared *France* had no other Design in view than to amuse and divide the Allies ; and in particular, that it was derogatory to her Majesty’s Honour, to enter into any Negotiation with that Crown, before her Majesty’s just Title was acknowledged. Some Endeavours were used to adjourn the Debate to the Monday following, or, at least, to the next Day ; by suggesting ‘ That the Offers that were handed about, having yet no other Authority than their being inserted in the *Holland Gazzettes*, might not be genuine ; and therefore the Lords ought not to take any Notice of them, till such time as the Queen had communicated them to the House.’ But this, and other Arguments, were over-ruled, and, it was resolved, without dividing, to address her Majesty. A Committee was thereupon appointed to draw up that Address, which, the same Day, was reported, and agreed to, and, by the whole House, presented next Day to the Queen, as follows :

Ms. B.

Anno 16 Anne,

1712.

The Lords Ad-
dress on the
same Occasion.

Most gracious Sovereign,

WE, your Majesty's most dutiful and loyal Subjects; the Lords spiritual and temporal in Parliament assembled, beg Leave humbly to represent to your Majesty, the just Indignation of this House at the dishonourable Treatment of your Majesty by France, in having proposed to acknowledge your Majesty's Title to these Realms no sooner than when the Peace shall be signed. And we cannot forbear expressing our utmost Resentment at the Terms of Peace offered to your Majesty, and your Allies, by the Plenipotentiaries of France: And we do, with the greatest Zeal and Affection, assure your Majesty, that this House will stand by, and assist your Majesty with our Lives and Fortunes, in carrying on this War, in Conjunction with your Allies, till a safe and honourable Peace can be obtained for your Majesty and your Allies.'

The Queen's Answer was to this Effect :

My Lords,

The Queen's
Answer.

" I Return you my hearty Thanks for the Zeal you express for my Honour, and for the Assurance you give of supporting me."

The Place-Bill
rejected by the
Lords.

The 29th of February, the Lords read the second Time the Bill from the Commons, for securing the Freedom of Parliaments, by limiting the Number of Officers sitting in the House of Commons: Which being committed to a Committee of the whole House, their Lordships immediately resolved themselves into that Committee; and after a Debate which lasted till Nine o'Clock in the Evening, the Question being put, Whether the said Bill should pass? It was carried in the Negative, by five or six Voices: Some Peers, who were said to be for the Bill, being absent, and not having left their Proxies.

The Patronage-Bill sent up to the
Lords.

The Commons having on the 7th of April read the third Time, and passed the Bill to restore * Patrons to their ancient Rights in Scotland, and sent it up to the Lords for their Concurrence, the Agents for the Presbyterians of that Part of Great Britain, resolved to follow it thither, and thereupon drew up to the following Representation :

To the most honourable the Lords spiritual and temporal in Parliament assembled.

The humble Representation of William Carstairs, Thomas Blackwell, and Robert Baillie, Ministers of the Church of Scotland, appointed by the Commission of the late General Assembly

* See CHANDLER's Hist. Anno 12 Anne, 1712. Page 276.

Assembly of the Church of Scotland, to take all proper Anno 11 Anne,
and legal Methods for preserving the Rights and Privi- 1712.
leges of the aforesaid Church.

IT is with all humble Duty and Submission represented unto your Lordships, that this depending Bill seems to be contrary to the present Constitution of our Church, so well secured by the Treaty of Union, and solemnly ratified by the Acts of Parliament in both Kingdoms. That this the Patronage may be more clear, it is to be observed, that, from the first Reformation from Popery, the Church of Scotland hath always reckoned Patronages a Grievance and Burden, as is declared by the first and second Books of Discipline, published soon after the said Reformation, since which Time they were still judged a Grievance, till at length they came by Law to be abolished.

These Patronages having been restored with Episcopacy, in the Year 1661 and 1662, did continue to the Year 1690: That Episcopacy was abolished, and Presbyterian Church Government again established; and tho' the Act of Parliament in 1690, resettling Presbyterian Church-Government, was founded upon the Act of Parliament in 1592, which bears a Relation unto Patronages, yet the said Act of Parliament in 1690, doth expressly except that Part of the old Act, and refer Patronages to be thereafter considered, which accordingly was considered in the same Parliament in 1590, whereby it is plain, that the Abolition of Patronages was made a Part of our Church-Constitution, enacted by the Act in 1690, and that this Act in 1690, with all other Acts relative thereto, being expressly ratified and for ever confirmed by the Act for securing the Protestant Religion and Presbyterian Government, and engrossed as an essential Condition of the Ratifications of the Treaty of Union past in the Parliaments of both Kingdoms; the said Act abolishing Patronages must be understood to be a Part of our Presbyterian Constitution, secured to us by the Treaty of Union for ever.

Yet it is to be particularly considered, that the same Parliament in 1690 was so tender of the civil Rights of Patrons, and so sincerely desirous only to restore the Church b its just and primitive Liberty of calling Ministers, in a way agreeable to the Word of God, that they only discharged the Patron's Power of presenting Ministers to vacant Churches, but as to any thing of civil Rights, did make the Condition of Patrons better than before, not only by reserving unto them the Right of Disposal of vacant Stipends for various Uses within the Paroch, but also giving unto them the miserable Rights of the Tythes, restricting the Minister,

Anno 11 Anne, who formerly had the said Right to Stipends, much below
 1722. the Value of the said Tythes, notwithstanding which advan-
 tageous Concession to the Patrons by the Parliament, this
 Bill takes back from the Church the Power of Presentation
 of Ministers, without restoring the Tythes which formerly
 belonged to her, by which the Patrons come to enjoy both
 the Purchase and the Price.

• This being then the true Account of our legal Settlement as to this Matter, it appears to be evident that the Restitution of Patronages, as to the Point of Presentation, can only gratify a few, while on the other hand it must necessarily disoblige a far greater Number, that are now freed of that Imposition; and indeed it cannot but seem strange, that this Bill should be so much insisted upon, when there are so many Patrons, and those of the most considerable in *Scotland*, that are against such a Restitution.

• It also appears, that Presbyteries must come under many Difficulties and Hardships, as to their Compliance with this Innovation, and that many Contests, Disorders and Differences, will probably ensue betwixt Patrons, Presbyters, Heretors and People, besides the known Abuses wherewith Patronages have been attended even in their most settled Condition; whereof many Instances might be given; especially, that thereby a Foundation was laid for simoniacial Practices betwixt Patrons and those presented by them, and likewise Ministers were imposed upon Paroches by Patrons who were utterly Strangers to their Circumstances, having neither Property nor Residence therein.

• It is therefore with all Submission expected from your Lordships Justice, and mature Deliberation, that a Bill, as we humbly conceive, so nearly affecting the late Union in one of its most fundamental and essential Articles, respecting the Preservation of the Rights and Privileges, which our Church at that Time was possessed of by Law, for the Security of which the Parliament of *Scotland* was so much concerned as not to allow their Commissioners to make it any Part of their Treaty, but reserved it as a Thing unalterable by any Judicature deriving its Constitution from the said Treaty, shall not be approved by your Lordships, especially while the Nature of the Treaty itself shews it to be a reciprocal Transaction betwixt the two Nations.'

W. CARSTAKES.
 T. BLACKWELL.
 R. BAILEY.

It is observable, that this Representation was first printed and presented with this Title, To the Most Honourable the Peers

Peers of Great Britain; but an Exception being taken to it, Anno-11 Anno, because it seemed either to imply that the Bishops were Peers upon the same foot with the temporal Lords, or to exclude them from being concerned in the Address; neither of which would be admitted; the said Representation was thereupon withdrawn, and new printed and presented as above. ^{1712.} It is also to be observed, that notwithstanding the said Mistake, which some were apt enough to construe as an intended Slight on Episcopacy, yet five of the Bishops, who entertained more charitable Thoughts, and were apprehensive of the fatal Consequences of the Bill, for restoring Lay Patronages, gave their Votes against it. But the Majority of the House of Lords were of another Opinion; and so the Bill was on the 14th of April sent back to the Commons with a small Amendment, to which the Commons afterwards agreed.

On Saturday the 17th of May their Lordships read the * Grants Bill the first Time, and the Question being put that the Bill be read a second time, it was carried in the Affirmative, by a Majority of two Voices. Accordingly, on the 19th, the Bill was read the second Time, and committed to a Grand Committee, into which the House resolved itself immediately. The Duke of Argyle, the Earl of Wharton, the Duke of Argyle, Earl of Wharton, Lords Cowper and Hallifax, and several other Peers made Lord Cowper, Lord Hallifax. fine Speeches against the Bill; but though there were six or seven Divisions in the Committee, yet the Affirmative still carried it by one Voice. The next Day the Bill was read the third time, and after a long Debate, the Question being put, that the Bill do pass, there happened to be 78 Voices on each side, viz. 53 present, and 25 Proxies for the Affirmative, and 52 present, and 26 Proxies for the Negative: The Bill drop'd. Whereupon, according to Custom, the Bill was lost, to the great Mortification and Disappointment of its Abettors.

On Tuesday the 27th of May, the Lord Hallifax acquainted the House of Peers, that he had Matters of great Importance to lay before them, and desired that the Members of that illustrious Assembly might be summoned to attend the Service of the House the next Day; which being ordered accordingly, his Lordship began his Speech with taking Notice of the strange Declaration made by the Duke of Ormond,

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mond,

* See CHANDLER's History, Anno 11 Anno, 1712, Page 299, and 303.

† In the Debate of this Day, the Earl of Paulett having drop'd some Expressions that were construed to reflect on the Duke of Marlborough, the latter, at the Instigation of the Lord Mohun, sent the other a Challenge, of which her Majesty having timely Notice, Care was taken to prevent the Duel, and compose the Quarrel.

Anno 11 Anne, mons, That he had Orders not to act Offensively against the
 1712. Enemy; afterwards endeavoured to shew the ill Consequences
 of such a Proceeding; and the Necessity of carrying on the
 War with the utmost Vigour, in order to obtain a safe and
 honourable Peace: And, in the Conclusion, made a Motion
 for addressing the Queen, ' humbly to desire her Majesty to
 ' lay before the House the Orders she had sent to her Ge-
 ' neral; and to order him to act Offensively in concert with
 ' the Allies.' Several other Lords spoke to the same Pur-
 pose; back'd his Lordship's Motion, and press'd the Lords in
 the Ministry, to acquaint the House, whether any Orders or
 Restraint had been sent to the Duke of *Ormond*? The Lord

Lord High
 Treasurer. Treasurer answered most of those Speeches; and having
 assured the House, ' That in a very few Days her Ma-
 ' jesty, according to her Promise, would lay before them
 ' the Conditions on which a General Peace may be made;
 ' which he doubted not would give entire Satisfaction to
 ' every Member of that Illustrious Assembly, and to all
 ' true *Englishmen*.' The Lord *Hallifax* would thereupon
 have dropt his Motion, but the opposite Party being secure
 of a Majority, insisted to have the Question put for adjoin-
 ning the Debate; which being done accordingly, the same
 was carried in the Affirmative by 68 Voices, against 40;
 whereupon several Lords entered their Protests. It is obser-
 vable, that the Lord Treasurer having declared, That there
 was no separate Peace, and that the same would be foolish,

E. of Wharton. knavish and villainous, the Earl of *Wharton* desired that Illus-
 trious Assembly to remember that Declaration. After this,

E. of Strafford. upon a Motion made by the Earl of *Strafford*, it was resolved
 to Address her Majesty, ' To desire that she would be pleased
 ' to cause the Papers relating to the Negotiations of the
 ' *Hague* and *Gertruydenbergh* to be laid before the House.'

It was observed before, That on the 28th of *May*, sev-
 eral Lords not only made warm Speeches, but protested against
 the Orders produced by the Duke of *Ormond*, not to act
 Offensively against the *French*. Not many Days after, the
 said Protest was published in Print, containing in Substance,
 1st, That their Lordships conceiv'd, such an Order as was
 proposed in the Question, to be absolutely necessary, because
 they were convinced that the Duke of *Ormond* lay under
 some Order of Restraint from acting Offensively, not only
 from the Accounts which were public both here and in *Hol-
 land*, of his declaring it to Prince *Eugene* and to the Deputies
 of the *States*, at their late Consultation, when both Prince
Eugene and those Deputies earnestly press'd him to join in
 attacking the *French* Army, which was then known to be
 much inferior to that of the Allies, both in the Number and

The Substance
 of the Lords Pro-
 test against the
 Orders for not
 fighting.

Con-

Condition of their Troops, but also that nothing of this Anno 11 Annoe, whole Matter was denied by those Lords, who had the Means of knowing these Facts, as undoubtedly would have been without Scruple, had not the said Facts been true; since no Scruple was made of acquainting the House with a subsequent Order very lately sent to the Duke of Ormond, allowing him to join in a Siege: Which was a further Evidence that he had before some Order of Restraint, for otherwise this last Order would be unnecessary and absurd; it being a general, constant, and standing Instruction to every Commander in chief, by Land or Sea, to do his utmost Endeavour to annoy the Enemy. And it is manifest by this last Order, that even in the Opinion of the Ministers, it was expedient to take off this Restraint, to some Degree; and the leaving the Duke of Ormond still under a Restraint from giving Battle to the French, seem'd most unaccountable, and inconsistent with the Liberty indulged to him of joining in a Siege, and render'd it altogether useless: For no Place, when taken, could be of such Advantage to the Allies as Cambray, which opens a free Passage for our Army into the Heart of France; and it was impossible to besiege that Place, without dislodging the French from their Encampment; and this also was impossible, if the French would keep their Ground. Other Attempts seem'd to be of little Use, but might serve to give the French Time, which they did not want Skill to improve.

2dly, That they conceiv'd it would be derogatory to her Majesty's Honour, to public Faith, and that Justice which was due to her Majesty's Allies; and that it was a sort of imposing upon our Allies a Cessation of Arms, without their Consent, and in the most prejudicial Manner, because they were not so much as acquainted with it, and so might have been led into great Difficulties; besides that, it frustrated all essential Advantages against the common Enemy, which might be of fatal Consequence to this Nation and all Europe.

3dly, Because it was acknowledged that a general Peace was not concluded, as indeed it was very unlikely it should be, there having been no Answers in Writing given by the French to the specific Demands of the Allies, tho' the same were deliver'd to the French three Months ago: And it was further declared, That there was no separate Peace, nay, that such a Peace would be foolish, knavish, and villainous. And, therefore, while we were in War, and having no Security of a Peace, their Lordships conceived that such an Order of Restraint was a plain Neglect of all those happy Opportunities which Providence might, and lately did, put into our Hands, of subduing our Enemy, and forcing him

Anno 11 Anne, to a just and honourable Peace. And surely it was imprudent and dangerous to rely on the Promises of *France*, which were so far from being any Security, that even a Peace would not be safe, in their Opinion, unless it be such as gave so full Satisfaction to the Allies, that they should be willing to join with us in a mutual Guaranty of it.

That her Majesty having with great Wisdom declared to this Parliament, That the best Means of obtaining a good Peace, was to make early Preparations for War, and a vigorous Prosecution of it : And since the Parliament had with great Duty and Deference to her Majesty, and a just Zeal for the Interests of their Country, and of *Europe*, given very great Supplies for that Purpose. Their Lordships conceived that such an Order of Restraint, being very different from that Declaration of her Majesty, must be the Effect of very ill Advice ; by which the Parliament's good Intentions would be defeated, and all those heavy Loads of Taxes, which they have for so good Purposes chearfully given, render'd fruitless and unnecessary ; and might, in Conclusion, after having thus trifled away our Wealth and Time, bring us into the Necessity of accepting such a Peace, as it should please an insolent and domineering Enemy to give us.

This Protest was also published Abroad in *French* and other Languages ; and the Names of the Peers who signed it, were the Dukes of *Devonshire*, *Marlborough*, *Rutland*, *Bolton*, *Montagu*, and *Somerset* ; the Marquis of *Dorchester* ; the Earls of *Wharton*, *Derby*, *Nottingham*, *Bridgewater*, *Godolphin*, *Carlisle*, *Orford*, and *Scarborough* ; the Lord Viscount *Townshend* ; the Lords Bishops of *Oxford*, *Sarum*, *Bangor*, and *St. Asaph* ; and the Lords *Rockingham*, *Cowper*, *Haver-sham*, *Mobun*, and *Hallifax*.

June the 6th, The Queen came to the House of Peers, and in a Speech (which see in *CHANDLER's Hist. Annæ 11 Anneæ, 1712, p. 316.*) to both Houses, gave a Sketch of the Treaty just negotiated with *France* at *Utrecht*, for which, as soon as she had withdrawn, it being moved that Thanks be returned to her Majesty for the same ; the Earl of *Wharton* said, ' That they had all the Reason in the World to do it especially for that Part of her Majesty's Speech, wherein she was pleased to declare, That the assuring the Protestant Succession in the House of *Hanover* to these Kingdoms, was what she had nearest at Heart : But that her Majesty's Speech containing many other Particulars of the greatest Consequence and Importance, he was of Opinion the House would do well to take her Majesty's Speech into Consideration the next Day : ' Which was readily agreed to. The Lords being met accordingly, on Saturday the 7th of

Motion for
an Address of
Thanks.

E. of Wharton.

June,

June, the Earl of *Wharton* proposed that the Letter from the ~~Amstel~~ ^{Amstel} ~~11~~ ¹² ~~Amstel~~ ^{1712.} ~~States-General~~ to her Majesty, inserted in the *Amsterdam French Gazette*, might be read: But this was opposed; it being suggested, that the House ought not to take notice of ~~His Motion for~~ a Writing that carried no Authority with it. After this, the ~~reading the Letter of the States~~ ^{to the Queen.} Lords took her Majesty's Speech into Consideration, which occasioned a warm Debate. Among the rest, the Duke of *Marlborough* represented, 'That the Measures entered into, and pursued in *England* for this Year past, were contrary to her Majesty's Engagements with the Allies; did fully the Triumphs and Glories of her Reign, and would render the *English* Name odious to all other Nations.' Whereupon the Earl of *Strafford* said, 'That some of the Allies would not ~~Earl of Strafford.~~ shew such Backwardness to a Peace as they had hitherto done, but for some Members of that illustrious Assembly, who maintained a secret Correspondence with them, and endeavoured to persuade them to carry on the War, feeding them with Hopes that they should be supported by a strong Party here.' The Lord *Cowper* answered this Speech; and because the Earl of *Strafford* had not expressed himself in all the Purity of the *English* Tongue, he took from thence Occasion to say, 'That this noble Lord had been so long Abroad, that he had almost forgot, not only the Language, but the Constitution of his own Country. That, according to our Laws, it could never be suggested as a Crime in the meanest Subject, much less in any Member of that august Assembly, to hold Correspondence with our Allies: Such Allies especially, whose Interest her Majesty had declared to be inseparable from her own, in her Speech at the opening of this Session: Whereas it would be a hard matter to justify, and reconcile, either to our own Laws, or the Laws of Honour and Justice, the Conduct of some Persons, in treating clandestinely with the common Enemy without the Participation of the Allies.

The Lords took afterwards into Consideration the Advantages offered by *France* to *Great Britain*, particularly in settling the Trade to *Spain* and to the *West Indies*, as it was in to *Great Britain* the Time of the late King of *Spain*, *Charles II.* On which Occasion the Earl of *Godolphin* said, 'He did not pretend to any great Knowledge in Trade; but that, during the Time he had the *Honour* to be in the Administration of Affairs, he had observed, and he might easily make it out by the Books of the *Custom-House*, that the single Trade of *Portugal* brought to *England* in Times of War, double the Wealth of the Trade to *Spain* in Times of Peace: So that, whatever might be suggested to cast a Mist before the Eyes of the People, it was to be presumed, that the Trade to *Spain* would still

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still yield less for the future, because the *French* had made themselves absolute Masters of it.' After many other Speeches, a Motion was made, that an humble Address be presented to her Majesty, to return her Majesty, the Thanks of this House, for her most gracious Speech, and for her extraordinary Condescension in communicating to her Parliament the Terms upon which a general Peace might be made, and to express the entire Satisfaction of this House, in her Majesty's great Care for securing the Protestant Succession in the House of *Hanover*; and for her Majesty's steadily pursuing the true Interest of her own Kingdoms; and for endeavouring to procure to her Allies what is due to them by Treaties; and to assure her Majesty, that this House did entirely rely on her Majesty's Wisdom to finish this great and good Work. Some Exceptions were made at the Words *entirely rely*; and the House was moved, that, at the Close of the foregoing Motion for an Address, these Words might be added, *viz.* ' And in order to that, to pray her Majesty to take such Measures in concert with her Allies, as might induce them to join with her Majesty in a mutual Guaranty : ' But after a Debate, in which the Earl of *Nottingham* and the Lord *Cowper* made very remarkable Speeches, the Question being put, Whether these Words should be added, it was resolved in the Negative, by 81 Voices against 36. The Reasons of this great Majority were then said to be, 1st, because the Proxies, of which the Anti-Court Lords had more than the other Side, were not called for; and 2dly, because several Peers did not think fit, on that Occasion, to vote against the Court. However that be, on Tuesday the 10th of *June*, the Lords presented their Address to the Queen, which, besides the ordinary Head, contained nothing but the Motion before-mentioned; and to which her Majesty was pleased to return this Answer.

**The Queen's
Answer to the
Lords Address.**

" I Most heartily thank you for this Address: The Satisfaction you express in what I have laid before you will contribute very much to remove the Difficulties which have arisen in the Course of this Negotiation. And the Confidence you place in me will enable me better to finish this great Work, for the Advantage of my own People and the Safety and Interest of my Allies."

**Several Lords
protest against
rejecting the
Guarantee
Clause.**

It is observable that several Lords entered a Protest against the rejecting of the Guaranty Clause, offered to be added at the Close of the Motion for an Address, and signed the Reasons for it, which were soon after published in Print, follows:

We think it necessary to have the Security proposed of a general Guaranty, and the rather, because we conceive the Terms of Peace that are offered, have proceeded from a separate Negotiation, carried on by the Ministers with France, without any Communication thereof to the principal Allies, particularly the *States-General*, as they say in the Letter to her Majesty, (whose Interest her Majesty was pleased to declare to this Parliament, she looked upon as inseparable from her own) and we conceive this Negotiation to be contrary to those Orders which her Majesty declared to this House, in answer to their Address, that she had given to her Plenipotentiaries at *Utrecht*, to concert with those of her Allies ; and the Resolution expressed in her Message, January the 17th, of a strict Union, in which she proposed to join with them, in order to obtain a good Peace, and to guaranty and support the same, as she had before declared in her Speech at the opening of this Session ; that she would unite with them in the strictest Engagements for continuing the Alliance, in order to render the general Peace secure and lasting ; and contrary to the 8th Article of the Grand Alliance, which expressly obliges all the Allies not to treat, unless jointly, and with the common Advice of the other parties.

And we conceive that the Refusal of these Words proposed to be added, may be looked upon by the Allies, as if this House approved this Method of transacting with *France*, which may seem to them to tend to a separate Peace, of which her Majesty has declared her Dislike, and which was acknowledged in this House to be foolish and knavish, and would be of pernicious Consequence to this Kingdom, by revoking that Guaranty of Peace by the Allies, which is absolutely necessary for their mutual Security, and leave exposed to the Power of *France*, there being little Reason to expect their future Help, after such a gross Breach of trust.

And we further conceive, that such a separate Proceeding may create in the Allies so great a Distrust, as may tempt them to take the like Measures, and to give the French Opportunity to break that Union, which has been hitherto so useful to us, and formidable to them ; any Appearance hereof must encourage *France*, either to delay the Conclusion of a Peace, or to impose upon the Allies in the further progress of the Treaty.

A perfect Union among the Allies seems to us to be more necessary in the present Case, because the Foundation upon which all the Offers of *France*, relating to *Great Britain*, as well as to the Allies, are built, viz. a Renunciation of the

Anno 11 Anne, Duke of *Anjou* to that Kingdom, is, in our Opinion, so fallacious, that no reasonable Man, much less whole Nations, can ever look upon it as any Security. Experience may sufficiently convince us, how little we ought to rely upon the Renunciation of the House of *Bourbon*, and tho' the present Duke of *Anjou* should happen to think himself bound by his own *Act*, which his Grandfather did not, yet will his Descendants be at Liberty to say, that no *Act* of his could deprive them of their Birth-right, and especially when it is such a Right, as, in the Opinion of all *Frenchmen*, ought inviolably to be maintained, by the fundamental Constitution of the Kingdom of *France*.

And we humbly think it unsafe to depend upon this principal Part of the Treaty's executing itself, by supposing it will be the Interest of *France* to support it, since, on the contrary, it is manifest by the *French* Endeavours, ever since the *Pyrenean Treaty*, to unite the Monarchies of *France* and *Spain*, they look upon that Union to be their greatest Interest, and the most effectual Means of establishing the universal Monarchy in the House of *Bourbon*.

And if it were reasonable to imagine, that the two Crowns of *France* and *Spain* should remain in distinct Branches of the House of *Bourbon*; yet this is contrary to the Grand Alliance itself, which recites the Usurpation of the *Spanish* Monarchy by the *French* King, for the Duke of *Anjou*, as the principal Cause of this War.

As to *Port Mabon*, *Gibraltar*, the *Affento*, and the other Advantages to *Britain* proposed by *France*, (besides that they are all precarious, and in the Power of *France* and *Spain* to take from us when they please) considering the Situation of those Kingdoms, and the vast Wealth and Strength which will be left to them, we conceive it impossible for any Man to look on those as a Compensation to *Britain*, in any Degree, for the leaving *Spain* and the *India* in the Possession of the House of *Bourbon*; which, besides other manifestly fatal Consequences, must be extremely prejudicial to our Woollen Manufacture, if it does not entirely ruin it.

As to the Demolition of *Dunkirk*, tho' we own it will be a great Safety to our Home-Trade, yet we have Reason to apprehend, by what was said in the Debate, that it is not yet agreed to be demolished, without any Equivalent for it to the *French* King's Satisfaction.

And in all the Particulars relating to the Allies, tho' they are not perfectly adjusted, yet by what does appear concerning them, the Allies are likely to be left in such a State of *Inf* security, as is absolutely inconsistent with our own Safety.

The Rhine is proposed for a Barrier of the Empire, Anno 11 Anno, 1712.
 which leaves Straßburg and Hunningen in the Hands of the French; the former of which has always been looked upon as the Key of the Empire.

The Proposals of France relating to the Barrier for the States General, not only deprive them of all the Places taken since the Year 1709, but also of two or three Places more, included in the Demand made by the States in that Year, which will render their Barrier wholly insufficient, and consequently very much weaken the Security of Britain.

Portugal seems to be wholly abandoned to the Power of Spain, notwithstanding the great Advantages we have received during this War, by our Trade with that Kingdom, which might still be extremely beneficial to us.

Upon the whole, there is so very little and inconsiderable Difference between these Offers of France, and those made at Utrecht, February the 11th. N. S. and signed Huxelles, (as appears to us upon our comparing them together) that both seem to be the Effect of a secret and particular Negotiation with France; and this House having unanimously concurred, in expressing to her Majesty their utmost Resentment at those Terms offered to her Majesty and her Allies, by the Plenipotentiaries of France; and her Majesty having graciously accepted that our Address, and rewarded that Duty and zeal with her hearty Thanks, we cannot, in respect to her Majesty, or Justice to our Country, retract that Opinion, nor link the Terms now good for us or the Allies, or give any ensuing Approbation of them, which then were received by this House, and all the Allies, with Scorn and Detestation.

For these Reasons, we are of Opinion, that the Offers of France are fallacious and ensnaring, no ways proportioned to the Advantages which her Majesty (from the great Successes which it has pleased God to bless her and her Allies, during the whole Course of this War) might justly expect for her Kingdoms, and for them, very insufficient for preserving a Balance of Power in Europe, for the future Security of her Majesty and her Allies, tho' they should be never so fully performed; and yet, even such as they are, there is effectual Security offered for the Performance of them, which makes it absolutely necessary, as we conceive, that Measures should be taken in concert with the Allies, as to induce them to join with her Majesty in a mutual Alliance.

Somerset, Godolphin, Devonshire, Berkley, W. Oxon, J. Ely,
 Haverhill, Suffolk, W. Asaph, Bolton, Wharton, Marlborough, Dorchester, J. Bangor, Rutland, Nottingham, Ccc 2

Carlisle,

Anno 21 Anne,
1712.

Carlisle, Bridgewater, Mabun, Townshend, Cowper, Montagu, Lincoln, Bedford.

The said Protest
ordered to be
expunged out of
the Books.

The Majority of Peers were so offended at this Protest, that on Friday the 13th of June, the Question being put, Whether the said Protest be expunged out of the Books of the House? It was carried in the Affirmative, by a Majority of 66 Voices against 31 present, and of 90 against 54, Proxies included. The next Day, upon a Complaint made in the House of Lords, that both the said Protest, and the former concerning the Orders produced by the Duke of Ormond, were published in Print, a Committee was appointed to enquire who were the Printers and Publishers of the same; but this Committee not being able to make any Discovery in that Matter, the Lords applied themselves, by Address, to the Queen for that Purpose. Hereupon, on the 24th of June, the Queen in Council at Kensington, the following Order was made:

Order of the
Council for the
discovering the
Printer and
Publisher of the
foregoing Pro-
test.

" **A** N Address from the Lords spiritual and temporal in Parliament assembled, having been presented to her Majesty, that she would be graciously pleased to direct such Methods to be taken, as her Majesty should think most proper, in order to discover the Printers and Publishers of the Reasons for the Protestation entered in the Journal of that House the 21st of May last; and of one other malicious and scandalous Paper, entitled, The Protests of the Lords upon addressing her Majesty for her Speech; with the Names of the Lords. Price 2d. And of any Person or Persons directing the Printing thereof; which having been this Day read at the Board, her Majesty in Council taking the same into Consideration, was thereupon graciously pleased to order, as it is hereby ordered, that whosoever shall discover to one of her Majesty's principal Secretaries of State, the Printer or Printers of the said Pamphlets, or either of them, within three Months from the Date hereof, so as he or they shall be brought to Justice, shall have and receive the Reward of 50l. and likewise, whoever shall within the said three Months discover the Person or Persons that directed the Printing thereof, or of either of them, so as he or they shall be brought to Justice, shall have and receive the Reward of 100l. and the Right Honourable the Lord High Treasurer is to cause the aforesaid Sums to be paid, upon the Conviction of the said Persons accordingly."

EDWARD SOUTHWELL."

June the 21st, Her Majesty put an end to the Session with a Speech to both Houses; to be found in CHANDLER's Hist. Anno 21 Anne, 1712, Page 354.

Th

The following Case was designed by the Duke of Marlbo- ^{Anno 11 Anno} rough to be presented to the Honourable House of Com- ^{1712.}mons, in Vindication of himself from the Charge of the * Commissioners of Accompts, in relation to the two and a half per Cent. for Bread and Bread-Waggons :

WHEN I first heard of the Proceedings before the The Duke of Commissioners for taking the public Accompts, I Marlborough's was Abroad, and in the Queen's Service; and tho' the Account I gave you by Letter, was not, in their Opinions, so full, but they have thought themselves obliged, notwithstanding that, to lay the Matter before you, I think myself however bound to own the Justice they have been pleased to do me, in reporting that Letter also, together with her Majesty's Letter.

I am sensible the Nature of the Service to which the Report relates, might occasion many Mistakes, without any Imputation to the Gentlemen concerned in that Commission, and I am sure that those Gentlemen, every one of them, and every other Gentleman here, will be glad to find himself convinced, that as I have, in some measure, deserved the good Opinion of my Countrymen on former Occasions, so nothing will appear in this, which can draw upon me the Blame of this House.

The first Article in the Report is founded upon the Deposition of Sir *Solomon de Medina*, by which you are informed of a yearly Sum paid by him and his Predecessor, Contractors for Bread and Bread-Waggons, to myself. This Payment, in my Letter, I have called a Perquisite of the General or Commander in Chief in the *Low Countries*; and it has been constantly applied to one of the most important Parts of the Service there, I mean the procuring Intelligence, and other Secret Service.

The Commissioners are pleased to observe, that these Sums cannot be esteemed legal Perquisites, because they do not find them claimed or received by any other English General in the *Low Countries*. But I must take Leave to affirm to this House, that this Perquisite or Payment has been allowed to the General, or Commander in Chief, in the *Low Countries*, both before and ever since the Revolution, to enable him to carry on such Secret Service. The like Allowance was made to Prince *Waldeck*, whilst he was General of the Dutch Army in *Flanders*; it was made during the last War as well as this; and for your further Satisfaction in this Matter, I am content to refer myself to Sir *Solomon de Medina*, who cannot but own, that when he made this Allowance, he knew it to be the constant Practice during the former Wars in

* See *CHANDLER's History*, Anno 10 Anno, 1711, Page 233.

Anne et Anne, in the *Low Countries*, and particularly when Prince *Waldeck* commanded there. And if it be a Circumstance worth your Notice, he must inform you also, that the Allowance of Waggons, which the Report takes Notice of, is usual likewise; that he has allowed the like, or near the like Number to *Count Tilly*, tho' he was not Velt-Marschal, and that there is a proportionable Allowance of the same kind to other Officers. The Report may have observed very rightly, that, by the strictest Enquiry the Commissioners could make, they cannot find that any *English* General ever received this Perquisite. But I presume to say, the Reason is, that there was never any other *English* General besides myself, who was Commander in Chief in the *Low Countries*. I crave Leave then to say, that this Observation in the Report, was occasioned thro' the Want of due Information in the Usage of the Army. In receiving this as an established and known Perquisite, I have followed and kept up that Usage which I found in the Army, when I first entered upon that Service; and upon this Ground alone, I hope that this House will not think that I was unwarranted in taking it.

‘ But that no Doubt may remain with you, I will state, as well as I can, what I have learnt, and during that time I have been in the Service, has been always understood to be the Ground, as well as the Design of this Allowance. The Contracts of Bread being of Necessity at the same Rates for the whole Army, and it being for the Security of the Service, those Contracts should be in the fewest Hands, the certain Gain upon so large a Sum as a Contract for the whole, or great Part of the Army, even at the lowest Prices, makes this yearly Allowance to have been thought not unreasonable from the Contractor. This being an Allowance generally arising from the Contracts that concern a Variety of Troops, under the same General, must naturally fall under the Direction, and come into the Hands of the Commander in Chief, as an Allowance to enable him to carry on such Designs, as could not be foreseen, but yet necessary to be put in Execution, and which chiefly depend upon Intelligence.

‘ I thought it more needful to give you this Account of the Nature and Design of this Allowance, because I observe from the Report, that the Objection is to the Justice and Reasonableness of the Perquisite itself, without having Regard to the Application or Use for which it is intended.

‘ But the Commissioners apprehend this not to be a justifiable Perquisite, because they say, the Public, or the Troops, necessarily suffer in Proportion to every such Perquisite.

‘ If these Observations were well grounded, I should think them

them good Reasons to put an end to the Allowance, and at Anno 11 Anno,
the same time to blame those who first introduced it: But 1712.
I take upon me to affirm, that this neither is, nor can be
the Case. I have never heard a Complaint, either of pub-
lic or particular Injury from this Allowance; nor does the
Report assign any Particular wherein it may be judged to
be so.

“ This Allowance to the General, can have no Influence
upon the Contract itself, which is actually made and signed
at the Treasury, and the Price regulated by what the *States*
have agreed to pay for the Bread for their Forces. I appeal
to all the Officers who have served with me in *Flanders*,
whether the Forces in her Majesty’s Pay have not all along
had as much, and as good Bread, as those of the *States*, and
at the same Prices; which every body will believe to be the
lowest, that considers the frugal Oeconomy of the *States*,
and the small Pay of their Troops? And therefore, I may
safely conclude, that if the *English* have had their Bread as
cheap as the *Dutch*, they have had it as cheap as was pos-
sible. Nor indeed can it be imagined to be otherwise; for
the very Supposition of two different Prices, paid by diffe-
rent Troops in the same Army, for the same Quantity of
Bread, wou’d occasion a Mutiny.

“ But this whole Affair has been so regulated, and there has
been so little Occasion of Complaint, that it is well known
our Army in *Flanders* has been duly supplied with Bread
during the whole War, and has received it with an Exact-
ness that will hardly be thought consilient with the Secrecy,
and Suddeness of some of the Motions that have been
made.

“ The Report farther says, that the General is the sole Check
upon the Contractor; and he is to take Care of the Perfor-
mance of the Contract, and to judge of all Deductions to be
made from, and Allowances to the Contractor. And from
these Suggestions it infers, that, under these Circumstances, it
is a Breach of Trust in him to receive the Perquisite.

“ This Observation amounts to no more than suggesting a
Possibility of Inconveniences from an ancient Usage in the
Army. And if by calling the General the sole Check upon
the Contractor, is meant, that he is the Person who is to re-
ceive Complaints concerning the Execution of the Contract,
and so far only is true,) I affirm, that upon all Complaints I
have given full Redress; either by ordering other Bread, or
the Value in Money, at the Choice of the Troops: For the
Truth of which, I appeal to the Officers of the Army. And
as to the General being to judge of all Deductions to be made
from, and Allowances to the Contractor, I am entirely a
Stranger

Anno 11 Anne, 1712. Stranger to any such Deductions and Allowances, of which the General is supposed to be the Judge.

One Circumstance remains upon this Article, which I barely touch upon, to remove a Prejudice raised by the Report, from the Caution and Secrecy with which it is said the Money has been received. This is supported only by an Allegation, that my Secretary, Mr. *Cardonel*, had declared upon Oath, that he never heard or knew of any such Perquisite, 'till lately; which it is supposed he ought to have done as Auditor of the Bread Account. But I take Leave to say, 1st, That he never was Auditor of the Bread-Account, nor has any Thing to do with it. 2dly, Tho' it is said in the Report, that he declared upon Oath, yet I cannot obtain or hear of any such Deposition; nor is it possible he could declare so. In this Part of the Report, there must have happened some Mistake. For I presume Mr. *Cardonel*, who is a Member of this House, can't but declare that he knows of this Perquisite; tho' he might be ignorant of the same, till Notice came to the Camp of what Sir *Solomon de Medina* had sworn.

As to the One *per Cent.* said to be allowed to Mr. *Sweet* for prompt Payment, I do aver that I knew nothing of it. And tho' Sir *Solomon de Medina* has often complained to me of Mr. *Sweet's* Payments not being regular, I do not remember he ever mentioned the One *per Cent.*

Now, as to the second Article in the Report, allow me to observe to you, that it has arisen only from the Information I myself gave the Commissioners by my Letter to them: This Matter having relation to that Part of the Service to which the Sums in the former Article have been applied; that the Commissioners might have a true State of it, I chose to insert a short Account of it in my Letter to them.

If I did this voluntarily, out of Duty to the Public, I hope I shall be thought to have given you Information upon a certain Belief, and I was altogether blameless in the Part I have had in it.

It will be necessary that I trouble the House with an Account of the Time and Occasion whence this Payment of Two and a half *per Cent.* by the Foreign Troops, commenced.

During the last War, the Allowances by Parliament for the Contingencies of the Army, of which that of Secret Service is the principal, was, 50,000 *l. per Ann.* But this Allowance fell so far short of the Expence on that Head, that upon the Prospect of this War's breaking out, the late King assured him, that this last Part of the Service never cost him less than 70,000 *l. per Ann.* However, the Allowance

Parliament for the whole contingent Service, during this Anno vi Anno's War, has been but 10000*l.* per *Annum*, 3000*l.* of which, 1712. or thereabouts, has generally gone for other Contingencies, than that of Intelligence. The late King, being unwilling to come to Parliament for more Money, on that Head of the Service, proposed this Allowance from the foreign Troops, as an Expedient to assist that Part of the Service, and commanded me to make the Proposition to them; which I did accordingly, and it was readily consented to. By this Means, a new Fund of about 15000*l.* per *Annum* was provided for carrying on the Secret Service, without any Expence to the Public, or Grievance to the Troops from whom the Allowance was made; for, when the Public pays, those Troops are not at all affected, or one Farthing increased, in Consideration of this Deduction; nor is there in any Conventions for them any Weight laid upon it; the Hire of foreign Troops being governed by settled Rules and Treaties, and the Conventions of the States for them, being in the same Terms.

This Expedient being formed in the Manner I have shewn, her Majesty was pleased to approve it by her Warrant, which being understood as a Confirmation or an Agreement with the foreign Troops, not negotiated by, and, by consequence, not within the Care or Business of the Treasury, was counter-signed by the Secretary of State, whose Province it belonged to, as the only proper Officer.

The true Design of this Deduction being to supply the Secret Service, Gentlemen, I hope you will observe, that this, together with the Sum on the former Article of the Allowance by Parliament, when put together, doth fall short of the Allowance given by Parliament in the last War, upon this Head.

I cannot suppose that I need to say how essential a Part of the Service this is, that no War can be conducted successful, without early and good Intelligence, and that such Adventures cannot be had but at a very great Expence. Nobody can be ignorant of this, that knows any thing of Secret Correspondence, or considers the Numbers of Persons that must be employed in it, the great Hazard they undergo, the variety of Places in which the Correspondence must be kept, and the constant Necessity there is of supporting and feeding this Service; not to mention some extraordinary Expences of a higher Nature, which ought only to be hinted at. And I affirm, that whatever Sums have been received on this Account, have been constantly employed in procuring Intelligence, in keeping Correspondence, and other Secret Service. If any Gentleman should doubt this, and imagine

anno 11 Anne, that this Expence could have been supported by the 10,000*l.*
 2712. per Annum, I desire them to consider, that the present War in Flanders, from the beginning of it, has been an Offensive War; the Campaigns early and long, the Variety of Actions have been very great, wherein so many Battles have been fought, Lines forced, and so many strong Towns taken, with Trenches opened; but yet, during the last War, which was of another Kind, if Regard be had only to what was allowed by the Public, it is certain, that the Charge on this Head, in three Campaigns of that War, came to at least as much as all the ten Campaigns of this. And tho' the Merit of our Successes should be least of all attributed to the General, the many successful Actions, such as have surpassed our own Hopes, or the Apprehensions of the Enemy, in this present War in Flanders, to which our constant good Intelligence has greatly contributed, must convince every Gentleman, that such Advices have been obtained, and consequently that this Money has been rightly applied.

Having given this full and faithful Account of the Rise and Use of this Deduction, it must, I flatter myself, appear to everybody that hears me, to have been a real Service, as well as saving of Money to the Public. And, tho' Honour is due to the Memory of the late King, who formed this Expedient, and to her Majesty, who approved of it, by her Warrant, I cannot, upon this Ground, apprehend any Imputation to myself, who have pursued this, so much to the Advantage of my Country.

Before I take notice of the Remarks made by the Commissioners upon this Part of the Letter, I make one general Observation upon the Nature of this Deduction, which those Gentlemen, throughout their Report, call Public Money, and to be accounted for in the same Manner that other Public Money is usually accounted for. But the Notion, I apprehend, is wholly misapplied, as will appear by shortly stating the Fact itself. By the Treaties with the foreign Princes for the Hire of their Troops, the whole Subsidies stipulated for, are due, and the Receipt is by them given for the whole Money, which is a sufficient Voucher to discharge the Pay-Master in the Exchequer, and thereby the Account, as to the Public. This Deduction, so made, does not properly issue out of the Exchequer, but of the Money of the foreign Troops, for their Proportion of the Contingencies: And therefore I still apprehend, I speak properly, when in my Letter I affirm, that this Two and a half *per Cent.* does not belong to the public Accounts. But as this Deduction arises from the Agreement set on foot by his late Majesty, and confirmed by her Majesty, as it comes in here

as a Proportion of the Expence, which ought to fall upon Anno 11 Annæ, the foreign Troops, and being applied to a Part of the Public Service, Gentlemen may, if they think fit, in this Sense, call it Public Money, to be accounted for, in such a Manner as the Nature of the Sense admits, and as the Public Allowance to the same Service is accounted for.

1712.

Having thus explained this Matter to you, I beg the Patience of the House to go on, and consider the particular Remarks that have been made upon it.

First, It has been objected, that her Majesty's Warrant has been kept dormant for nine Years, and the Deduction concealed from the Knowledge of the Parliament; but surely the Warrant cannot be said to have been kept dormant, that has been lodged in the Hands of the Pay-Master General's Deputy in Holland, which was delivered to me out of the Office of the Secretary of State, signed by her Majesty, and counter-signed by him, as all Warrants are, and which could not possibly be concealed from the Commanders of so many foreign Troops, nor indeed from the Troops themselves, which consist of so many thousand Men, without whose Knowledge the Deduction could not have been made; and who, if it had been in the least uneasy to them, would no doubt have complained. In what Sense can this be called a dormant Warrant, which, from the Time it was signed, had been in the Hands of the proper Officer, and constantly and publicly put in Execution? The Report adds, that the Deduction has been concealed from the Parliament; for which, it is said, I have not assigned sufficient Reasons; but as there has been no Concealment, there could be no Need of assigning Reasons for it; much less was it necessary to lay Accounts of the Money before the Parliament, it being no Part of the Estimate for the Service, nor of any Influence on the Money to be given by Parliament: For the Subsidies to the foreign Troops are governed by previous Treaties, and therefore must have continued the same, tho' this Deduction had never been made: Besides, that the Exchequer is discharged of this Money, on the Receipt from the foreign Troops for the complete Subsidy. I have said in my Letter, that this being a free Gift of the foreign Troops, does not properly relate to the Public Accounts: Upon which the Commissioners observe, that this is inconsistent not only with the Words of the Warrant, which supposes an Agreement, but with that Part of my Letter which takes notice of this Stoppage, to be stipulated for by me as Ambassador; and from thence the Report concludes, that this Money is to be accounted for, as other Public Money is: But this Observation I take to be grounded upon the mistaken Notion of Public Money, which, as has

anno 11 Anne, been already observed, being meant of Money granted by
 1712. Parliament, and standing in Charge in the Exchequer, can
 never be applied to this Payment; which is a Contribution
 by the foreign Troops, out of their own Money, and not
 out of the Money of *Great Britain*. I might say, that tho'
 this Deduction has been submitted to by the foreign Troops,
 during this War; yet it is so far voluntary at this Day, that
 it depends barely upon a parole Stipulation, and when Um-
 brage shall be given, may, at any time, be receded from by
 them. This Report farther objects, that the 10,000*l.* given
 for Contingencies, is not confined to the *British* Troops, but
 was intended for the 40,000 Men, without Distinction. Now
 the contrary to this is evident; for, in the Estimate laid
 yearly before this House, it is plain that this is given for the
British Troops only, and not for the rest of the 40,000 Men;
 and in the Estimate for the foreign Troops, the Article of
 Contingencies is omitted, for no other Reason, but because by
 this Warrant it was otherwise provided for; and therefore the
 Words of the Warrant are for defraying contingent Expences
 relating to them, which is plainly said in Opposition to the
 contingent Money allowed for her Majesty's own Troops;
 and the like contingent Money has not only been allowed
 upon all other Parts of the Service, but it will appear, by
 examining what has been so allowed, that the Sums have
 exceeded in Proportion what has been ever allowed for the
 Army in *Flanders*: But the Report adds, that the 10,000*l.*
 has not been always thought exempt from Account, as ap-
 pears from a Privy Seal bearing Date in *March*, 1706,
 wherein there is a Clause releasing me from a Sum, Part of
 the 10,000*l.* which the Report said, supposes it had other-
 wise been to be accounted for. When I say in my Letter,
 that the 10,000*l.* given by Parliament, is without Account;
 I dare say, I cannot easily be misunderstood: The Nature of
 the Thing not admitting of a particular Account, and the
 constant Practice never requiring any. In all the Accounts
 during the War, of that Money, my Receipt has been a
 sufficient Discharge; but that not being a regular Voucher
 for the Pay-Master, it has been thought necessary from time
 to time, to grant a Privy Seal, to enable the Pay-Master to
 pass that Part of his Account: And tho' there be that Clause
 inserted in the Privy Seal, mentioned in the Report, of
 which, I affirm, I was unacquainted, I yet presume to say,
 that it was not only needless, but also contrary to all Prac-
 tice, both before and since; for the Truth of which, I ap-
 peal to the Pay-Master General, who will do me Justice in
 it, if any Gentleman can doubt it.

As to the Legality of the Warrant, which is the next
 Objection,

Objection, the Commissioners having barely touched on this, ~~Anno 11 Anne,~~ as not duly counter-signed, I think it sufficient to say, that ~~1712.~~ this Warrant, being principally intended for confirming an ~~Agreement~~ ^{1712.} Agreement with the foreign Princes, was properly counter-signed by the Secretary of State for that Province, rather than by the Lord Treasurer, who could have nothing to do with it; however, I must believe, that an Error of this kind, if any body should think it so, which depends upon a Nicety, cannot be thought to affect the General, whose Part has only been to apply the Money as the Warrant directs.

But it is further remarked, that neither the Stoppage nor Payment of this Money have been regularly made. First, not the Stoppage, because the Warrant directs it should be stopped in the Hands of the Pay-Master, or his Deputy. But this Method does not appear, by the Pay-Master's Account, to have been pursued; but on the contrary, it is said, that the Payments to the foreign Troops are always complete, and the Receipt taken in full, without any Notice of the Deduction. But yet I presume to say, the Stoppage has been regularly made, in pursuance to the Warrant: The Deputy Pay-Master is expressly authorized by the Warrant, to make that Stoppage; and it is of Necessity he should make it, who resides Abroad, where the Matter must be transacted, and the Stoppage applied. And it may not be amiss to observe, that in Cases where Deductions are intended to be accounted for, as Public Money, the Warrant, which authorizes such Deductions, directs the same to be accounted for, and the Manner in which it is to be done: But where Deductions are made by virtue of Warrants that contain no such Directions in them, as in the present Instance, it hath been presumed, that there was no Intention such Deductions should be accounted for to the Public.

Next, as to the Payment, this is said to be according to the Warrant, because neither Mr. Brydges, nor Mr. Cardwell, ever saw any Warrant from me, directing the Payment of it. I am not surprised, if the Gentlemen, in this Circumstance especially, might not be apprized of the Method of issuing Money for Secret Service, which could be only in my own Knowledge. But for their Information, and the Satisfaction of the House, I take the Liberty to acquaint you, that the Method of issuing this, and the Public Allowance of 10,000*l.* for Secret Service, hath been exactly the same, and in this Manner.

I send my Letters to the Deputy Pay-Master, requiring the Payment of the Sum I have Occasion for, to myself; and for such Sums as are received from time to time, giving my Receipt. This is the Order of the General, which is meant

Amo 13 Anne, meant by her Majesty's Warrant; and which alone is practicable in this as well as in the Instance of the 10,000 £. contingent Money. Nor is there any Gentleman that considers the Nature of Secret Service, but must see it is not possible, by the General's Warrant, to direct the Payment to the Person, for whose Use it is received.

But the Commissioners are of Opinion, that the Deputy Pay-Master ought to have transmitted constant Accounts of this Deduction, to the Pay-Master General. If I could expect the House could expect from me an Account of a Circumstance, for which the Deputy Pay-Master alone is answerable, I should take the Liberty to say, that in my poor Opinion, if he has not transmitted such Accounts, it must be, because he is neither required nor authorized, by her Majesty's Warrant, to do so. He is only obliged to make the Stoppage, and issue the Money upon my Orders, which he has done. Nor can I conceive it to be of any Use to the Public, or the Pay-Master General, to have received such Accounts; he not being chargeable with any such Stoppage; nor are the Receipts for it any part of his Vouchers.

The last Objection is, that the Deduction being made for defraying contingent Expences to the foreign Troops; if the whole has been employed in Secret Correspondence, such a Disposition, not being authorized by the Warrant, is a Misapplication of Public Money. But though it is said in the Warrant, to be for defraying contingent Expences relating to the Troops, the Reason it is so expressed, I take to be nothing else, but that in the Establishment for the Forces serving Abroad, the Word *Contingencies* hath always comprehended Secret Service, that having always been what was principally meant by that Article. And this is so evident, that if Secret Service be not included under the Word *Contingencies*, that important Part of the Service would have no Allowance from the Public for it, which I presume will not be thought expedient. And therefore, though the Deduction be declared to be for Contingencies, no Stress can in Justice be laid upon that Word, to prove it was not designed for Secret Service. And indeed, this is confessed immediately after, in the Report itself; which says, that the Article for Secret Service was always included in the 10,000 £. given for Contingencies. But if Secret Service be meant by, or included under Contingencies, in the Establishments for the British Troops, how can it be supposed, that the Word *Contingencies* in the Warrant for the Foreign Troops, is not to be understood in the same Manner?

No body can doubt, but Contingencies, or contingent Expences mean the same in both; and therefore Secret Service

vice must be included in both, or neither : But I cannot better explain this whole Matter, than by supposing, that Secret Service being an Affair that affects the whole Army, the Charge of it is to be laid in proportion upon the whole. But the Share of the *British* Troops is borne by the Public, while the Share of the Foreigners is raised upon the Troops themselves by the Deduction, which is therefore said to be for defraying such contingent Expences as relate to them ; that is, for their Share of the Expence of Secret Service, which being principally, and in the first place meant by Contingencies, there is no Opposition between the Ends directed by the Warrant, and those that the Money has been applied to, and consequently there has been no Misapplication of it : I have nothing to add upon this Article, but to take notice of a great Mistake, even in the second Computation which is made in the Report relating to this Deduction, for it is said, that the whole Stoppages from the Troops in *Flanders* have amounted to the Sum of 177,959*l.* 17*s.* and three Farthings, when, in truth, computing them from *May, 1702*, the Time they were first made, they do not exceed 151,748*l.* taking the Exchange at a Medium between eleven Guilders, and ten Guilders, ten Stivers : So that this Deduction, for the ten Years, comes to no more than 15,174*l.* 16*s.* a Year.

Upon the whole Matter, I cannot but hope this House will find Reason to be satisfied with this Part of my Conduct ; and I think it no ill Service, that so necessary and important a Part of the War, and which has turned to so good an Account, has been managed with so little Expence to the Public : And I may, with the greatest Certainty, assure them, that all other Parts of the Service have been carried on with all the good Husbandry that was possible. And, I believe, I may venture to affirm, that I have, in the Article for Secret Services, saved the Government near four Times the Sum this Deduction amounts to. Which I must reckon so much Money saved to the Public.'

A few Days after the Rising of the Parliament, *viz. July the 4th*, Mr. Secretary St. John was created Viscount *Bolingbroke* ; and about the same time *Quesnoy* was surrender'd to the Allies : But the 16th, the Duke of *Ormond* having before declared he had Orders not to fight, the Grand Confederacy was dissolved, Prince *Eugene* with the Imperialists, together with the Troops which had been till then in the *British* Pay, decamping to form the Siege of *Landrecy*, and his Grace, the the next Day, proclaiming a Suspension of Arms between *Great Britain* and *France*, which was likewise done in the *French* Camp by the Marshal *Villars*.

After

Mr. Secretary
St. John made
V. *Bolingbroke*
Affairs abroad.

~~Annus 12 Anno 13.~~ After which the British Forces marching towards *Du-*
3713. *kirk*, were deny'd Entrance into *Boscombe* and *Douay* by the
Dutch, and the 24th, N. S. the French attack'd the Earl of
Albemarle, who was encamp'd with 13 Batallions and 30
Squadrons at *Denain*, took the Earl himself Prisoner, toge-
ther with 3000 more, put as many to the Sword, and carried
off 12 Pieces of Cannon, 37 Colours, 3 Standards, and a
vast Quantity of Ammunition, &c. being the first signal Ad-
vantage they had obtained in *Flanders*, since the War began,
and which they improved so well, that on the 31st *Marchi-*
ennes, where was the Grand Magazine of the Allies, was sur-
render'd into their hands: Upon which Misfortune, Prince
Eugene was obliged to raise the Siege of *Landrecy*, and retire
towards *Mons*, the 2d of *August*: And *Douay*, *Quesnoy*, and
Bouchain had the same Fate with *Marchiennes*.

November the 5th, King.* *Philip* renounced the Crown of
France in Form, as, about four Months after, the Dukes of
Berry and *Orleans* did that of *Spain* in the Parliament of
Paris.

December the 29th, The *States General* agreed to come in-
to the Plan of Peace proposed by the Earl of *Strafford*, and
the 31st the Duke *D'Aumont* arrived here as Ambassador from
France; the Lord Viscount *Bolingbroke* having been sent to
Paris in *August*.

March 30, 1713, The famous Treaty of *Utrecht* was sign'd
by the Ministers of *Great Britain*, *France*, and all the other
Allies except those of the Emperor, and Empire; and the
9th of *April*, after several Prorogations,

The THIRD SESSION of the Third Parlia- ment of GREAT BRITAIN

WAS opened with a Speech from the Throne to both
Houses, which see in *CHANDLER's History*, *Anno 12*
Annoe, 1713, *Page 335*.

Duke of Beau-
fort's Motion
for an Address
of Thanks.
Debate thereon. The Queen being retired from the House of Peers, and
the Commons gone back to their own, the Duke of *Beau-*
fort made a Motion for an Address of Thanks, which occa-
sioned a small Debate, chiefly about the Expression of *Gen-*
eral Peace. Some Peers argued, that it could not be said to
be general, since the Emperor, the Elector of *Hanovir*, and
other Princes and States of the Empire were not yet come
into it: But they were answered, that it justly might be
called general, since the major Part of the Allies had sign'd
it. After this a Motion was made, that in the Address of
Thanks

* Sept. 15, The Lord Lexington set out from hence to receive the said
 Renunciation.

Thanks a Clause might be inserted, That her Majesty would be pleased to lay before the House the Treaties of Peace and Commerce; but the Question being put thereupon, it was carried in the Negative by a Majority of 74 Voices against 43. The next Day, the Duke of Beaufort reported the Address of Thanks to the House, and the same being approved, was on Saturday the 11th, about two in the Afternoon, presented to the Queen as follows:

Most gracious Sovereign,

WE, your Majesty's most dutiful and loyal Subjects, Lords Addressed the Lords spiritual and temporal in Parliament assembled, do, with the greatest Joy and Satisfaction, return our humble Thanks to your Majesty for your most gracious Speech from the Throne, and for communicating to your Parliament that a Peace is concluded; by which we hope, with the Blessing of God, that your People will, in a few Years, recover themselves after so long and expensive a War; and also do congratulate your Majesty upon the Success of your Endeavours for a general Peace.

We never had the least Doubt, but that your Majesty, who is the great Support and Ornament of the Protestant Religion, would continue to take, as you have always done, the wisest Measures for securing the Protestant Succession, towards which nothing can be more necessary, than the perfect Friendship there is between your Majesty and the House of Hanover.

And we humbly assure your Majesty, that, as you express your Dependence, next under God, upon the Duty and Affection of your People, we think ourselves bound by the strictest Ties of Religion, Loyalty, and Gratitude, to make all the dutiful Returns that can be paid by the most obedient Subjects to the most indulgent Sovereign.'

To which her Majesty returned the following Answer:

My Lords,

I DO most heartily thank you for this Address; and be assured, that I take a particular Satisfaction, that you so kindly express the Confidence you have in me." The Queen's Answer.

The Endeavours of the Scotch Members in the House of Commons for easing their Countrymen of Part of the Malt-Tax, having proved ineffectual, they had several private Meetings with the Scotch Peers sitting in Parliament; and, laying aside all invidious Distinctions, consulted together how to redress their Grievances. On the 26th of May they deputed four of their Number, viz. the Duke of Argyll, the Earl of Marr, Mr. Lockhart, and

1713.

E e e

and

* See CHANDLER's History, Anno 12 Anne, 1713, Page 12, 13.

Anno 12 Anne, and Mr. Cockburn, who, by their Order, attended the Queen, and by Word of Month, humbly remonstrated to her Majesty, ' That their Countrymen bore with great Impatience the Violation of some Articles of the Act of Union, and that the laying such an insupportable Burden as the Malt-Tax upon them, was like to raise their Discontents to such a Height, as to prompt them to declare the Union dissolved.' To this unexpected verbal Remonstrance, the Queen answered, ' This was a precipitate Resolution, and she wished they might not have Reason to repeat it; but, however, she would endeavour to make all Things easy.'

The Queen's Answer.

The Scotch Members being met again the next Day, and their Deputies having made their Report of her Majesty's Answer, it was unanimously agreed, that, before they proceeded further, they should lay their Grievances before the House of Lords.

Accordingly, on Thursday the 28th of May, after the Lords had adjourned the Debate about the VIIth and IXth Articles of the Treaty of Commerce, the Earl of Finlater made a Motion in the House of Peers, that some Day might be appointed to consider the State of the Nation; whereupon the Lords appointed Monday the 1st of June, when all the Lords in Town were summoned.

Earl of Finlater's Motion for a Day to consider the State of the Nation.

Which gives Rise to a Debate about the Union, which is opened by the said Earl.

Between one and two, the Debate began, opened by the Earl that made the Motion (*Finlater*), who represented the Grievances of the Scotch Nation, which he reduced to four Heads, *viz.* 1. Their being deprived of a Privy-Council. 2. The Laws of *England*, in Cases of Treason, extended to *Scotland*. 3. The Scotch Peers being incapable of being made Peers of *Great Britain*, as it was adjudged and declared in the Case of the late Duke of *Hamilton*. And 4. The *Scots* being subjected to the Malt-Tax, which would be the more unsupportable to them now, in that they never bore it during the War, and had Reason to reap and enjoy the Benefits of Peace: Concluding, ' That, since the Union between the two Nations had not those good Effects as were expected and hoped from it, when it was made, he therefore moved, that Leave might be given to bring in a Bill for dissolving the said Union, and securing the Protestant Succession in the House of *Hanover*, the Queen's Prerogative in both Kingdoms, and preserving an entire Unity and good Correspondence between the two Kingdoms.' This Motion was seconded by the Earl of *Marr*, and opposed by the Lord *North* and *Grey*, who, in a long Speech, endeavoured to shew that the Complaints of the *Scots* were groundless, and the dissolving of the Union impracticable, not without some Reflections on the Poverty of the

Seconded by the Earl of *Marr*, and opposed by the Lord *North* and *Grey*.

the *Scotis* Nation. He was answered by the Lord *Eglington*; *Anno 12 Anno 1713.*
 who allowed the *Scotis* Nation to be poor, and therefore unable to pay the Malt-Tax. The Lord *North* and *Grey* replied to him, insisting, 'That it was nothing but *Lord Eglington.* *Lord North and Grey.*
 what was agreed by the Treaty of the Union; the XIVth Article of which imported, that *Scotland* should not be charged with any Imposition on Malt during the War only, which now was at an End.' The Earl of *Isla* confessed *Earl of Isla.*
 there was such a Clause; but that the same Article imported, 'That seeing it could not be supposed, that the Parliament of *Great Britain* would ever lay any sorts of Burdens upon the united Kingdom, but what they should find of Necessity, at that time, for the Preservation and Good of the Whole, and with due Regard to Circumstances, and Abilities of every Part of the United Kingdom, therefore it was agreed, that there should be no further Exemption insisted on for any Part of the United Kingdom, but that the Consideration of any Exemptions beyond what was already agreed on in this Treaty, should be left to the Determination of the Parliament of *Great Britain*'. He urged, 'that when this Treaty was made, the *Scots* concluded, the Parliament of *Great Britain* would never go about to lay any Imposition that they had Reason to believe was burdensome; and having set forth their Inability to pay the Malt-Tax, concluded, for the Earl of *Seafield's Motion.*' Hereupon the Earl of *Peterborough* stood up, and made a long Speech, *Earl of Peterborough.* wherein he endeavoured to shew the Impossibility of dissolving the Union. He said, among other things, 'That he had heard the Union compared to a Marriage; that, according to that Notion, since it was made, it could not be broke, being made by the greatest Power upon Earth. That, tho' sometimes there happened a Difference between Man and Wife, yet it did not presently break the Marriage: So, in the like Manner, tho' *England*, who, in this national Marriage, must be supposed to be the Husband, might, in some Instances, have been unkind to the Lady, yet she ought not presently to sue for a Divorce, the rather because she had very much mended her Fortune by this Match: Adding, that the Union was a Contract, than which nothing could be more binding.' To this the Lord *Isla* answered, 'That *Earl of Isla.* if the Union had the same Sanction as Marriage, which was an Ordinance of God, he should be for observing it as religiously as that, but that he thought there was a great Difference.' To which the Earl of *Peterborough* replied, 'He *Earl of Peterborough.* could not tell how it could be more solemn than it was, except they expected it should have come down from Heaven, like the Ten Commandments. Animadverting, in the Conclusion,

~ Anno 12 Annoe, clusion, on the *Scots*, as a People that could never be satisfied ; that they would have all the Advantages of being united to *England*, but would pay nothing by their good Will : And that they had more Money from *England* than all their Estates amounted to in their own Country.' To

D. of Argyle. him the Duke of *Argyle* replied, in a warm Speech, saying, among other Things, ' That he was by some reflected on as if he was disgusted and had changed Sides, but that he despised those Persons, as much as he undervalued their Judgments. That it was true he had a great Hand in making the Union : That the chief Reason that moved him to it was the securing the Protestant Succession ; but that he was satisfied that might be done as well now, if the Union were dissolved. That he spoke as a Peer of *England*, as well as of *Scotland* : That he believed in his Conscience, it was as much for the Interest of *England* as of *Scotland* to have it dissolved ; and if it were not, he did not expect long to have either Property left in *Scotland*, or Liberty in *England*. He urged, that the Tax upon Malt in *Scotland* was as unequal (tho' the same as in *England*) as taxing Land by the Acre, which would be very unjust, the Land being worth five or six Pound per Acre, here about *London*, and not so many Shillings in some Parts of the Country. That this was the Case between the *Scotch* and the *English* Malt ; the latter being worth three or four Shillings the Bushel, the other not above one : So that if this Tax were collected in *Scotland*, it must be done by a Regiment of Dragoons.' Some other *Scotish* Peers said, ' That the End of the Union was the cultivating an Amity and Friendship between the two Nations, but it was so far from having that Effect, that they were sure the Animosities between the two Nations, were much greater now than before the Union. That it might easily be proved by many Instances, that some Persons agreed better when they were asunder, than when together : and for that Reason they believed, if the Union were dissolved again, the two Nations would be like to be better Friends.'

Lord Chief Jus- On the other hand, the Lord Chief Justice *Trevor* made a vehement Speech tice *Trevor*, and against it, as a Thing hardly to be done. He was backed by the Lord Treas- by the Lord Treasurer, who said, ' That the Earl of *Seafield*'s surer *Oxford*. Motion was no less strange than unexpected ; that the Union being made by two distinct Parliaments of both Kingdoms, he did not see how it could be dissolved, now the two Nations were in different Circumstances from what they were in when it was made ; because the Power that made it was no more in being ; and nothing could make it void, but the Power that created it : Concluding, that if the *Scots* had any Grievance to complain of, there might be some other Method thought

thought of to redress them, without proceeding to that extra- *Anno 12 Annæ,*
 ordinary Way of dissolving the Union, which had been made *1713.*
 in so solemn a Manner, and brought about with so much Diffi-
 culty at last, after so many fruitless Attempts before.' This
 was answered by the Earl of *Nottingham*, who represented *Earl of Notting-*
the Advantages of the Union, if the Views with which *ham*,
 it was made, had been steadily pursued. He added, ' That
 tho' the two Nations were now in other Circumstances than
 when the Union was made, yet the same Power that was in
 the two Parliaments when they were separated and distinct,
 was lodged in them, now they were consolidated, and there-
 fore if they had Power to make it, they certainly had to
 dissolve it: And that he knew not any thing but what the
 Parliament could do, except destroying the present Constitu-
 tion, which he owned they had no Power to do. That the
 Inconveniencies that had attended the Union could not be
 foreseen till the Trial was made: And since the *Scots*, who
 were the best Judges of the Affairs of their Kingdom, found
 that it did not answer the Ends proposed, he was for dissolv-
 ing it.' The Earl of *Sunderland* said to the same Purpose, *Earl of Sun-*

• That tho' he had a Hand in making the Union, yet if it *derland*.
 had not that good Effect which was expected from it, he was
 likewise for dissolving it.' The Lord Viscount *Townshend* *Lord Viscount*
Townshend. said, ' He was of the same Opinion; provided, nevertheless,
 Means could be found to secure the Protestant Succession, and
 therefore desired to know what Security the *Scots* could give
 for that essential Point, before they proceeded any further.'
 To this some of the *Scotisb* Lords replied, ' That would
 appear when the Bill was brought in; that then it was a
 proper Time to shew what Security they could give; and
 therefore moved that the Question might be put immediately,
 Whether a Bill should be brought in or not?' The Earl of *Notting-*
Nottingham desired, that another Day might be appointed to *ham*.

consider further of a Matter of such Consequence, that the
 Lords might be better apprized of it. The Lord *Hallifax* *Lord Hallifax*.
 declared also for dissolving the Union, provided it could be
 made appear that the Succession could be secured; but yet
 desired that a further Day might be appointed to consider of
 so important a Matter. Two *Scotisb* Lords, the Earls of
Marr, and *Loudoun*, who were before for putting the Question, *Earl of Marr.*
 immediately declared themselves better satisfied by that *E. of Loudoun.*
Lord's Reasons, and so were for putting it off to another
 Time. There were several other Speeches made both by
English and *Scotisb* Lords, particularly by the Earls of *Pa-* *Earl Paulett.*
lett, Scarborough, and Scarfdale. And it is observable, that *Earl of Scarbo-*
 when one of the Lords urged the Danger that *England* would rough.
 be in from the Pretender, if the Union were dissolved, the *E. of Scarfdale.*

Lord

Anno 12 Anne, Lord *Townshend* answered, ' He could not tell what *England* had to fear from that or any other Incident ; and that the Queen, Lords and Commons of *England*, if all in one Interest, need fear no Enemy in the World, but ought to despise the Pretender, and all his Abettors.' The Duke of *Argyle* having occasion to mention the Pretender, said, ' He knew not what Name to call him by, his Name being now as uncertain as his Parents : ' But the Earl of *Scarsdale* called him the Prince, or, added he, the Pretender, which you will. Upon the whole Matter, the Court-Lords were all against dissolving the Union ; and said, that the very moving such a Thing was dangerous, and might be of ill Consequence, and therefore desired that such an effectual Stop might be put to it, as that none might offer at any such thing again. On the other hand, the *Scotisb* Lords said, that if the Union were not dissolved, their Country would be the most miserable under Heaven. The Question being put on the Earl of *Finlater's* Mot on, the same was carried in the Negative by four Voices, there being 54 Lords present on each Side, and 17 Proxies for the Negative, and only 13 for the Affirmative. It is ob-

E. of Scarsdale.

The Question carried in the Negative.

Lord Treasurer.

E. of Sunderland.

The Malt-Bill committed and pass'd.

servable that the Lord Treasurer having, in the Course of this Debate, advanced, ' That though the Tax were laid, it might be afterwards remitted by the Crown, and not levied : ' The Earl of *Sunderland* said, ' He wondered such Expressions as tended to establish a despotic, dispensing Power, and arbitrary Government, should come from that noble Lord.' To this the Treasurer answered, ' That his Family had never been for promoting and advising arbitrary Measures, as others had done ; ' which the Earl of *Sunderland* taking to be a Reflection on his Father, he not only vindicated him, but added, ' That the other Lord's Family was hardly known in those Days.'

The next Day the Lords resumed the Consideration of the VIIIth and IXth Articles of the Treaty of Commerce, and heard some of the Merchants, who had been summon'd to attend their House ; as likewise on the XIth and XIIth, but came to no Resolution.

June the 5th, The Lords read a second Time the Malt-Bill, and the Question being put, that the same be referred to a Committee of the whole House, the same occasion'd a long Debate ; but after many Speeches it was carried in the Affirmative, by 85 Voices against 83 ; that is, by 64 present and 21 Proxies, against 63 present and 20 Proxies. It was observed that two *Scotisb* Peers were absent without leaving their Proxies, which if they had, the Votes had been equal. Three Days after, the Lords in a Grand Committee consider'd of the said Bill, and, after a warm Debate, that lasted

till Six o'Clock in the Evening, it was carried that the Bill Anno 12 Anne, do pass, by a Majority of 64 Voices against 56.

1713.

On which Occasion was enter'd the following Protest :

*Dissentient**

Because, we apprehend, that the charging *Scotland* with Protest thereon, this Malt-Tax will be a Violation of the XIVth Article of the Union, by which it is expressly provided, that *Scotland* shall not be charged with any Malt-Tax, during this War : And it was not denied ; for, indeed, it is undeniable, that Peace with *Spain* is not yet concluded, and by Construction of Law and Usage of Parliament, this Bill is to be reckoned as a Grant to the Crown, and a Charge upon the People from the first Day of this Succession, at which Time, even the Peace with *France* was not made.

2dly, Because a great Part of this Malt-Tax is for the satisfying and making up the Deficiency of the Malt-Tax in the Year one thousand seven hundred and eleven, from which *Scotland* being entirely free, we conceive it unjust, even tho' the Peace were concluded, to make that Part of the united Kingdom pay any Part of that Tax, which was expressly given (as appears by the Preamble) for this present War.

3dly, Because it is by the aforesaid XIVth Article expressly provided, that due Consideration shall be had of the Circumstances of *Scotland*, when any Imposition or Tax is laid on it ; and we are fully perswaded that it is impossible for *Scotland* to bear so heavy a Tax, by which it will be liable to pay vastly more when the Peace shall be concluded, than it did during the War ; whereas *England* has its Burdens greatly diminished.

Somerset, Marr, Northesk, Balmerino, Scarborough, Linlithgow, Orkney, Sunderland, Finlaster, Isla, Blantyre, Greenwich, Kinnoul, Londsale, Eglintoun, Rosberrie, Loudoun, Kylsytb, Hume.

June the 29th, The Duke of *Bolton* took notice in the House Duke of Bolton. of Peers both of the Queen's* Message to the Commons about the Debts of the Civil Lists, and of the Resolution of the Commons therupon, insinuating, That they were somewhat extraordinary, the usual Way being for the Crown to ask Subsidies of both Houses, otherwise the House of Lords would become altogether useless : But tho' the Consideration of this Matter was put off to the next Day, yet the same was waved, upon Account of a more important Affair, *viz.* The Earl of *E. of Wharton's* Motion for re-moving the *Wharton's* then moved, 'That an humble Address may be presented to the Queen, that she would be pleased to use her Pretender from most *Lorraine*.

* See *CHANBLER's History*, Anno 12 Anne, 1713, Page 12, 13.

Anno 32 Anne 1713. most pressing Instances with the Duke of *Lorrain*, and with all the Princes and States in Amity and Correspondence with her Majesty, that they would not receive, or suffer to continue within any of their Dominions, the Pretender to the Imperial Crown of these Realms.

Several Members appearing surprized at this unexpected Motion, which was undoubtedly designed to try the Inclinations and Affections of some Persons, there was a Pause for a while : At last the Lord *North and Grey* broke Silence, and endeavoured to have that Motion laid aside, representing, that such an Address would shew a Distrust, either of the Queen, or the Ministers ; that her Majesty would be very much puzzled what to do, in case the Princes and the States in Amity with her, should be unwilling to comply with her Instances, since it would not be in her Power to compel them ; concluding with this Question, Where they would have the Pretender reside, since most, if not all the Powers in *Europe*, were in Amity with her Majesty ? To this the Earl of *Peterborough* was said to have answered, That since he began his Studies in *Paris*, the fittest Place for him to improve himself was *Rome*. After some other warm Expressions between the Earl of *Wharton* and the Lord Treasurer, it was unanimously resolved that such an Address should be presented to her Majesty. Accordingly, on the 2d of July the House of Lords attended her Majesty with the following Address :

Most gracious Sovereign,

Address of the House of Lords **W**E, your Majesty's most dutiful and loyal Subjects, the Lords spiritual and temporal in Parliament assembled, do take Leave humbly to return to your Majesty the Thanks of this House, for the great Care it appears to us your Majesty has, on all Occasions, taken to prevent the Pretender to your Crown from coming into any of your Majesty's Dominions : And we do humbly beseech your Majesty, that for the Safety of your Person and Government, the Security of the Protestant Succession in the House of *Hanover*, and for the Peace and Quiet of these your Kingdoms, your Majesty will be graciously pleased to use your most pressing Instances with the Duke of *Lorrain*, and with all Princes and States in Amity and Correspondence with your Majesty, that they will not receive, or suffer to continue within any of their Dominions the Pretender to the Imperial Crown of these Realms."

To which her Majesty was pleased to return the following Answer :

My Lords,

Anno 12 Anno'

1713.

The Queen's
Answer.

Take extreme kindly your Address, and the Thanks you give me for what I have done for establishing the Protestant Succession.

I shall repeat my Instances to have that Person removed according as you desire in this Address. And I promise myself; you will concur with me, that if we could cure our Animosities and Divisions at Home, it would be the most effectual Method to secure the Protestant Succession."

The Lord Chancellor (*Hartourt) having the next Day reported by the reported her Majesty's Answer to the House of Peers; the Lord Chancellor, Duke of Buckingham, Lord President, said, he never heard of any Instances that had yet been made to the Duke of Lorraine, for removing the Pretender out of his Dominions. If either of the two principal Ministers of State had been in the House, they might, in all probability, have better explained her Majesty's Answer; but they happened to be both at Dinner with the Duke D'Aumont, Ambassador extraordinary from his most Christian Majesty. Hereupon, the Earl of Sunderland made Motion for a second Address; which was backed by the Earl of Nottingham, and, notwithstanding some small Opposition, it was ordered by the Lords spiritual and temporal in Parliament assembled, 'That an humble Address be presented to her Majesty, to return the Thanks of this House to her Majesty, for her most gracious Answer to their Address; and for the Assurances her Majesty has been pleased to give us, of repeating her Instances for removing the Pretender; and to express our Surprise, that such Instances have not had their full Effect, notwithstanding the French King, and the King of Spain have shewed their Compliance to her Majesty's Desires on that Occasion; and to assure her Majesty, that this House will stand by her and support her, in whatever her Majesty shall judge proper for obtaining a Demand, which is so warranted by the Laws of Nations, and so necessary for the Honour and Safety of her Majesty, and for the present and future Peace and Quiet of the People.' It was also ordered, that the said Address be presented to her Majesty by the Lords with white Staves; which was done accordingly: And on Monday the 6th of July, the Lord Steward acquainted the House, That the Lords with white Staves had presented to her Majesty the Address of this House of Friday last; and her Majesty was pleased to receive the same very graciously.

July the 16th, Her Majesty put a Period to the Session with a Speech to both Houses, which see in CHANDLER'S

1713.

F f f

History,

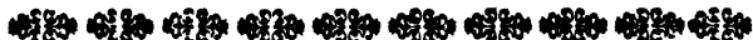
* So made April the 7th, 1713.

Anno 13 Anneæ, 1713-14. *History, Anno 12 Anneæ, 1713, Page 56:* And in August this Parliament was dissolved, and Writs were issued for the summoning another.

**Parliament dis-
solved.**

**Remarkables
betw een the
Sessions.**

The Controversy concerning the Demolition of *Dunkirk*, the Continuance of the War against the *Catalans*, who had rejected the Terms procured for them by the * Treaty between *Great Britain* and *Spain*, the Surrender of *Friburg* to the *French*, and the opening a Negotiation for a Peace between the *Emperor* and *France*, at the Castle of *Rastad*, were the most remarkable Incidents which happened in the Recels.



The Fourth Parliament of GREAT BRITAIN

ASSEMBLED at *Westminster*, February the 16th, and the Commons having chose their Speaker, adjourn'd to March the 2d; when her Majesty came to the House of Peers, and opened the Session with a Speech to be found in *CHANDLER's History, Anno 12 Anneæ, 1713, Page 58.*

The Queen being retired, and the Commons gone back to their House, the Lords resolved to present an Address of Thanks to her Majesty, which being drawn up by a Committee appointed for that Purpose, and agreed to on the third of March, was the next Day presented to her Majesty, as follows :

Most gracious Sovereign,

**The Lords Ad-
dress of Thanks.**

WE, your Majesty's most dutiful and loyal Subjects, the Lords spiritual and temporal, in Parliament assembled, beg Leave to approach your Royal Person, with the greatest Respect, to return the humble Thanks of this House to your Majesty, for your most gracious Speech from the Throne. We chearfully embrace this Opportunity of assuring your Majesty, that the Joy our Hearts are filled with, upon your Recovery from your late Indisposition, cannot sufficiently be expressed; and that our fervent Prayers to Almighty God shall never be wanting, that your Majesty's Reign may exceed in Number of Years, and in all manner of Happiness, that of the longest and most prosperous of any of your Royal Predecessors, as that which will best conduce to the Happiness and Satisfaction of the most dutiful Subjects, to the best of Queens.

**It is with the greatest Pleasure, and the utmost Grati-
tude,**

• Concluded at *Utrecht*, July 13.

tude, that this House receives the Communication your Anno 13 Anne, 1713-14.
 'Majesty is pleased to give them, that the Ratifications of your Treaties of Peace and Commerce with *Spain* are exchanged, and that we are, by your Majesty's great Wisdom and Goodness, at last delivered from that consuming Land-War, the Burdens and ill Consequences whereof we are sensible nothing can remove or prevent, but a right Improvement of the present Opportunity ; and it shall be our Endeavour, as we are satisfied it will be your Majesty's, to unite our Differences, not by relaxing from the strictest Adherence to our Constitution in Church and State, but by observing the Laws ourselves, and to the utmost of our Power, enforcing a due Obedience to them in others.

‘ And we do assure your Majesty, that this House will most heartily concur with your Majesty, in all proper Methods, to compleat the Settlement of *Europe* ; and we will use our utmost Endeavours to discourage and discountenance all Attempts to weaken your Majesty's Authority, or to render the Possession of the Crown uneasy to you.

‘ We acknowledge, with Hearts full of Duty and Thankfulness, that great Care which your Majesty has taken, during the whole Course of your Reign, to secure our Religion and Liberties, and to transmit both safe to Posterity.

‘ It is with the utmost Detestation, that we reflect on the Proceedings of those Men, who, by spreading seditious Papers, and factious Rumours, have been able to sink Credit, and thereby to involve the Innocent in the ill Consequences of their Iniquity ; and more particularly of those who have attained to that Height of Malice, as to insinuate, that the Protestant Succession in the House of Hanover, is in Danger under your Goverment.’

To which her Majesty returned the following Answer.

My Lords,

“ I Return you most hearty Thanks for your very affectionate Address. The Queen's Answer.

“ You who are nearest the Throne, will, first of all my Subjects, feel the evil Consequences of any Diminution of the regal Dignity.

“ It is a great Comfort to me, that I have your Assurance of Support.

“ Depend upon it, I will never give way to the least Attempt, either on the just Authority of the Crown, or on your Rights and Privileges.”

Anno 13 Anne,

1713-14.

On the 2d of March, the Earl of Wharton made a Complaint in the House of Lords against a scandalous Libel, entitled, *The Public Spirit of the Whigs*, set forth in their generous Encouragement of the Author of the *Crisis*, with some Observations on the Seasonableness, Candor, Erudition and Stile of that Treatise. Printed for John Morphew, near Stationer's Hall, 1714. In which the Passage that gave most Offence to the Lords, is as follows :

Complaint in the House of Lords against a Libel, called, *The public Spirit of the Whigs*.
The Passages complained of.

' This Work, (meaning the Union of the two Kingdoms) he tells us, was unsuccessfully attempted by several of her Majesty's Predecessors ; tho' I do not remember it was ever thought on by any, except King James I. and the late King William. I have read, indeed, that some small Overtures were made by the former of these Princes towards an Union between the two Kingdoms, but rejected with Indignation and Contempt by the English. And the Historian tells us, that how degenerate and corrupt soever the Court and Parliament then were, they would not give Ear to so infamous a Proposal. I do not find that any of the succeeding Princes, before the Revolution, ever resumed the Design ; because it was a Project for which there could not possibly be assigned the least Reason or Necessity : For I defy any Mortal to name one single Advantage that *England* could ever obtain from such an Union. But towards the End of the late King's Reign, upon Apprehension of the Want of Issue from him, or the Princess Anne, a Proposition for uniting both Kingdoms was begun, because *Scotland* had not settled their Crown upon the House of Hanover, but left themselves at large, in hopes to make their Advantage : And it was thought highly dangerous to leave that Part of the Island, inhabited by a poor, fierce, northern People, at Liberty to put themselves under a different King. However, the Opposition to this Work was so great, that it could not be overcome till some Time after her present Majesty came to the Crown ; when, by the Weakness or Corruption of a certain Minister, since dead, an Act of Parliament was obtained for the *Scots*, which gave them Leave to arm themselves, and so the Union became necessary ; not for any actual Good it could possibly do us, but to avoid a probable Evil ; and at the same time, save an obnoxious Minister's Head, who was so wise, as to take the first Opportunity of procuring a general Pardon by Act of Parliament, because he could not with so much Decency or Safety desire a particular one for himself. These Facts are well enough known to the whole Kingdom ; and I remember, discoursing above six Years ago with the most

con-

considerable Person of the adverse Party, and a great Promoter of the Union, he frankly owned to me, that this Necessity brought upon us by the wrong Management of the Earl of Godolphin, was the only Cause of the Union. Anno 13 Anno, 1713-14.

Therefore I am ready to grant two Points to the Author of the *Crisis*: 1st, That the Union became necessary for the Cause above related; because it prevented the Island from being governed by two Kings, which *England* would never have suffered; and it might probably have cost us a War of a Year or two to reduce the *Scots*. 2dly, That it would be dangerous to break this Union, at least in this Juncture, while there is a Pretender Abroad, who might probably lay hold of such an Opportunity. And this made me wonder a little at the Spirit of Faction last Summer among some People, who having been the great Promoters of the Union, and several of them the principal Gainers by it, could yet proceed so far, as to propose in the House of Lords, that it should be dissolved; while at the same time, those Peers who had ever opposed it in the Beginning, were then for preserving it, upon the Reason I have just assigned, and which the Author of the *Crisis* hath likewise taken notice of.

But when he tells us, the *Englishman* ought, in generosity, to be more particularly careful in preserving this Union, he argues like himself. The late Kingdom of *Scotland*, (faith he) had as numerous a Nobility as *England*, &c. They had, indeed, and to that we owe one of the great and necessary Evils of the Union upon the Foot it now stands. Their Nobility is indeed so numerous, that the whole Revenues of their Country would be hardly able to maintain them according to the Dignity of their Titles; and what is infinitely worse, they are never likely to be extinct, till the last Period of all Things, because the greatest Part of them descend to Heirs general. I imagine, a Person of Quality prevailed on to marry a Woman much his Inferior, and without a Groat to her Fortune, and her Friends arguing, she was as good as her Husband, because she brought him as numerous a Family of Relations and Servants, as she found in his House. *Scotland* in the Taxes is obliged to contribute one Penny for every forty Pence laid upon *England*; and the Representatives they send to Parliament are about a Thirteenth: Every *Scottish* Peer has all the Privileges of an *English* one, except that of sitting in Parliament, and even Precedence before all of the same Title that shall be created for the time to come. The Pensions and Employment possessed by the Natives of that Country now among us, do amount to more than the whole Body of their Nobility ever spent at Home; and all the

Anno 13 Anne, the Money they raise upon the Public is hardly sufficient to defray their civil and military Lists. I could point out some with great Titles, who affect to appear very vigorous for dissolving the Union, though their whole Revenues, before that Period, would have ill maintained a Welch Justice of the Peace ; and have since gathered more Money than ever any Scotchman, who had not travelled, could form an Idea of.'

Lord Treasurer.

The Publisher order'd into Custody.

And Mr. John Barber.

Earl of Marr.

This Complaint being warmly espoused by the Majority of the House of Peers, the Lord High Treasurer protested he knew nothing of that Pamphlet ; exclaimed against the malicious Insinuations contained in it ; and readily joined with the House in an Order for committing *John Morphem*, the Publisher, to the Custody of the Black-Rod. Mr. *Morphew*, upon this Examination, having declared, than an unknown Porter had brought to his House the Copies of the Pamphlet in question, from the House of *John Barber*, Printer of the *Gazette*, and of the Votes of the House of Commons ; the said *John Barber* was also ordered into the Custody of the Black-Rod ; and both he and *Morphew*, were, on Friday, the 5th of *March*, severally examined at the Bar of the Lords House. Mr. *Morphew* made the former Declaration, and owned the publishing and selling of that Libel, but Mr. *Barber* said, he knew nothing of it ; and insisted not to answer any Questions, the Answer to which might tend to accuse himself, or to corroborate the Accusation against him.

They being withdrawn, a noble Peer said, they had nothing to do either with the Publisher or Printer, but that it highly concerned the Honour of that august Assembly to find out the Villain, who was the Author of the false and scandalous Libel, in order to do the *Scotisb* Nation Justice : And thereupon moved, that in order to that Discovery, *Barber* might be again examined the next Day, together with his Journey-Men and Servants : The same was readily agreed to ; but on the 6th of *March*, the Earl of *Marr*, one of her Majesty's Principal Secretary of State, acquainted the House, that he had already order'd *John Barber* to be prosecuted, which put a sudden Stop to all farther Enquiries about that Matter, in a parliamentary Way.

Three Days after, *Barber* and *Morphew* were, upon their humble Petition, enlarged from the Custody of the Black-Rod ; and the same Day the Lords resolved upon an Address to the Queen about that Matter ; which was reported and agreed to on the 11th of *March*, and on the 15th presented to the Queen, as follows :

Most gracious Sovereign,

Anno 13 Anne,

1713-14.

Address of the
Lords to the
Queen thereon.

WE, your Majesty's most dutiful and loyal Subjects, the Lords spiritual and temporal, in Parliament assembled, beg Leave humbly to represent to your Majesty, that we have begun our Endeavours to suppress seditious Papers (which your Majesty was pleased to take Notice of in your most gracious Speech from the Throne) by applying ourselves to discover the Author, Printer, and Publisher of a Pamphlet, entitled, *The Public Spirit of the Whigs*, set forth in their generous Encouragement of the Author of the *Crifts*, with some Observations on the Seasonableness, Candor, Erudition, and Style of that Treatise. London, printed for *John Morpheu* near Stationer's Hall, 1714. Which we conceive to be a false, malicious and factious Libel, highly dishonourable and scandalous to your Subjects of *Scotland*, tending to the Destruction of the Constitution, and (by making false and unjust Reflections upon the Union, and the Steps and Motives to it) most injurious to your Majesty, who have been pleased often to declare from the Throne, that the Union of the two Kingdoms is the peculiar Happiness of your Reign, in making a full Provision for the Peace and Quiet of your People, and the Security of our Religion, by so firm an Establishment of the Protestant Succession throughout *Great Britain*: It appeared to us by the Confession of the said *John Morpheu* at our Bar, that he published, sold, and dispersed that Libel; and, by the Examination of several Witnesses on Oath, that the same was printed by *John Barber*, a Printer, who, at the Time of the Printing the said seditious Libel, was, and yet is, entrusted with printing the *Gazette*; but the said *John Barber*, in his Examination, insisting not to answer any Questions, the Answer to which might tend to accuse himself, or to corroborate the Accusation against him, we have not as yet been able to discover the Author of the said Libel, or who brought the written Copy thereof to be printed. And therefore, that nothing may be wanting on our Parts, towards the discovering and punishing so great a Criminal, as we take the Author of the said Libel to be, we do most humbly beseech your Majesty, that your Majesty will be graciously pleased to issue your Royal Proclamation, with a Promise therein of such a Reward as your Majesty shall, in your Royal Wisdom, think fit, to any Person who shall discover and make due Proof against the Author or Authors of the said Libel; as also your Majesty's most gracious Pardon to such Person or Persons as shall make such Discovery

anno 13 Anne, 1713-14. covey, of all Crimes and Misdemeanours committed in relation to the printing, publishing, and dispersing the said Libel.'

To this Address the Queen was pleased to return this Answer.

My Lords,

The Queen's Answer.

" I Thank you for the Concern you shew for suppressing all seditious Libels.
" And have given Orders for a Proclamation according as desired."

Proclamation to discover the Author.

Accordingly, the same Day, the Queen ordered a Proclamation to be published, containing the Suggestions of the Lords Address, and promising a Reward of the Sum of 300l. for discovering the Author of a false, malicious, and factious Libel, entitled, 'The Public Spirit of the Whigs, &c. Which the Lord High Treasurer was thereby directed to pay.

Debate on the State of the Nation.
Earl of Wharton.
Earl of Nottingham.
Earl of Nottingham.
Earl of Sunderland.
Lord Cowper.
Lord Halifax.

On Wednesday, the 17th of March, the Lords took into Consideration the State of the Nation, and the Earls of Wharton, Nottingham and Sunderland, the Lords Cowper, Halifax, and some others, having represented the Danger that threatened the Protestant Succession, in the Electoral House of Hanover, by Reason of the Pretender not being yet removed from Lorrain, and the ill Condition the Affairs of Europe were left in by the late Treaties of Peace, moved, that Addresses be presented to her Majesty, that the proper Officers might be directed to lay before the House, 1st, An Account of what Steps had been taken for removing the Pretender from the Dominions of the Duke of Lorrain, pursuant to the Addresses of both Houses of last Parliament; and what Answers had been given to her Majesty, or any of her Ministers, by the Duke of Lorrain, or any of his Ministers. 2dly, An Account of the Negotiations of Peace, what Measures had been taken to render the Peace universal, and what Obstructions her Majesty had met therein. 3dly, An Account what Instances had been made for restoring to the Catalans their ancient Privileges, and all Letters relating thereunto. 4thly, An Account of the Moneys granted by Parliament since the Year 1710, to carry on the War in Spain and Portugal.' Which Addresses were ordered to be presented to her Majesty, without any Opposition.

The Lord Treasurer moves for a Bill against foreign Troops being brought into the Kingdom.
Earl of Nottingham.

After this the Lord High Treasurer moved for Leave to bring in a Bill for the future Security of the Protestant Succession, by making it High Treason to bring any foreign Troops into the Kingdom: Upon which the Earl of Nottingham, apprehending some dangerous Drift in that Motion, represented, ' That such a Bill might be

turned

turned against the Guarantees of the Protestant Succession, Anno 13 Anne and so weaken that happy Settlement, for the Security of which, the said Bill was pretended to be intended.' Hereupon the Lord *Bolingbroke* replied, ' That he doubted not, ^{1713-14.} Ld Bolingbroke, but the noble Peer who made the Motion, meant only such foreign Troops, as might be brought into the Kingdom by the Pretender or his Adherents.' The Lord Treasurer having declared this to be his Meaning, it was answered, ' That, in that Case, such a Bill was altogether unnecessary, since such Troops were, *ipso facto*, either open Enemies, if Foreigners, or Traitors and Rebels, if Natives.' The Earl of *Anglesea* put an end to the Debate, with saying, ' That the Lord who made the Motion was not acquainted with the Methods of Proceeding in that House: For every Peer has the Privilege of bringing in what Bill he thinks fit; that the Lord-Treasurer's asking Leave for it, was but a Compliment to the House; and therefore, when he had brought in the said Bill, it would be then a proper Time to consider of it.' Hereupon the said Motion was dropped. His Motion The same Day a noble Lord reflected on the Bishop of *Sarum*'s Preface to his *Pastoral Care*: But that Prelate offering to vindicate himself, no further Notice was taken of it.

Two Days after, the Lords resumed the Consideration of the State of the Nation, upon which there was a Debate, which lasted till five o'Clock in the Evening. Several Lords spoke again in Favour of the *Catalans*, and insisted, ' That the House ought strictly to examine how that poor People came to be abandoned, after they had been solicited, and drawn in to declare for the Emperor.' The Earl of *Anglesea* seeing the Ministry thus vigorously attacked, endeavoured to ward off the Blows, by saying, ' That, for his own Part, he was one of the first that appeared against the late Ministers, because he was fully convinced of their Mal-Administration, Corruption, Avarice, and unbounded Ambition. That he would, in like manner, be one of the first that should attack the present Ministers, if he thought them guilty of the same Faults; but, as he had observed that it was merely out of Spleen and Envy, that some Persons were for enquiring into the Conduct of Patriots, who had given signal Proofs of their Zeal for the Public Good, he was of Opinion, that they ought to examine into the Conduct, both of the late and present Ministers, that so, by comparing one with the other, they might see which had committed less Errors.' However, the Lords in the Opposition pursued their Point, and in particular took notice of the Danger, both the Queen's Person, and the Protestant Succession were in from the great Number of out-
^{State of the Nation farther debated.} E. of *Anglesea*.

Anno 13 Anne. lawed Jacobites, who were permitted to come over from beyond Sea : And complained of the Favour shewn to the Pretender's Friends, in granting *Noli Prosequi's* to some Persons, who were under Prosecution for writing against the Protestant Succession. They also animadverted upon the Debts of the Navy being much increased, tho' nothing had been done at Sea for two or three Years past : And the Court-Party having little or nothing to say to these Particulars, it was moved and resolved, to address her Majesty, that she would be pleased to order the proper Officers to lay before the House, ' *First*, An Account of the Debts and State of the Navy. *Secondly*, An Account of *Noli Prosequi's* granted since her Majesty's Accession to the Throne : And *Thirdly*, A List of Persons out-lawed, attainted, or that had borne Arms in the Service of her Majesty's, or the late King's Enemies, who had got Licences to return into *Great Britain*, or other her Majesty's Dominions, since the Year 1688.' After this, upon a Motion for adjourning, the said Opposition-Lords, who designed to follow the Chace while the Scent lay hot, and vigorously to prosecute the Enquires into the State of the Nation, proposed to adjourn only to the Monday following. But the Ministry being highly concerned in putting a Stop to those troublesome and ungrateful Dispositions, the Lord-Treasurer, represented, ' That the Solemnity of *Easter's* Festival approaching, the next Week, ought, according to the primitive Institution, and the constant Practice of the Church of *England*, to be set apart for Works and Exercises of Piety ; and therefore moved to adjourn to *Wednesday* the 31st of *March*.' Being seconded by the Lord *Trevor*, the Earl of *Wharton* said thereupon, ' God forbid he should oppose that noble Lord, who had made so pious and religious a Motion ; but that he appealed to that venerable Bench (pointing to the Bishops) whether Humanity and Christian Charity did not require it at their Hands, not to lose one Moment of Time, in addressing her Majesty in behalf of the distressed *Catalans*, who were reduced to such an Extremity, that the least Delay in procuring them Relief, might prove their Ruin for ever.' Hereupon, it was resolved, without Opposition, to present the said Address, and then the Earl of *Oxford's* Motion, for adjourning to the 31st of *March*, was carried in the Affirmative, by 66 Voices against 43.

Their Lordships being met again on the 31st of *March*, the Lords with white Staves acquainted the House, that the Queen had been pleased to order the Papers, for which they had addressed her Majesty, to be laid before them, but that it required some Time to transcribe the same : Upon which

House adjourned.

Lord *Trevor*.
E. of *Wharton*.

the House adjourned to Friday the 2d of April. That Day, Anno 13 Anne, several Papers relating to the Catalans were read; after which the Earls of Wharton and Sunderland, the Lords Halifax, Cowper, and some others, represented, that the Crown of Great Britain having drawn in the Catalans to declare for the House of Austria, and engaged to succour and support them, those Engagements ought to have been made good. To this the Lord Bolingbroke answered, ' That her Majesty had used all her Endeavours to procure to the Catalans the Enjoyment of their ancient Liberties and Privileges; but that, after all, the Engagements her Majesty was entered into, subsisted no longer, than while King Charles was in Spain; but that Prince being advanced to the Imperial Dignity, and having himself abandoned the Catalans, her Majesty could do no more than to interpose her good Offices in their behalf; which she had not been wanting to do.' To this it was replied, That God Almighty had put more effectual Means into her Majesty's Hands: And after some other Speeches, the Lord Cowper moved for an Address to her Majesty, importing, ' That her Majesty's Endeavours for preserving to the Catalans the full Enjoyment of their Liberties, having proved ineffectual, their Lordships made it their humble Request to her Majesty, that she would be pleased to continue her Interposition, in the most pressing manner, in their behalf.' None of the Peers opposed this Motion; only the Lord Chancellor, in order to justify all that had been done by the Ministry, said, ' Their Address would be more grateful to her Majesty, if the Word *ineffectual* were left out, and if they should *thankfully* acknowledge her Majesty's Endeavours in favour of the Catalans.' Which was approved, and a Committee was appointed to draw up the said Address accordingly.

The next Day the Address was read and agreed to; and the Afternoon presented to her Majesty as follows:

WE, your Majesty's most dutiful and loyal Subjects, Address to the the Lords spiritual and temporal in Parliament assembled, having taken into Consideration, the several Papers your Majesty was most graciously pleased to order to be laid before this House, in Pursuance of our humble Address, of the 17th Day of March last, that your Majesty would be pleased to order an Account to be laid before this House, of what Endeavours had been used, that the Catalans might have the full Enjoyment of their ancient Liberties and Privileges; did with the utmost Thankfulness to your Majesty, and Satisfaction to ourselves, observe the repeated and earnest Endeavours of your Majesty, for preserving to the Catalans the full Enjoyment of all their

1714.
Debate about
the Catalans.
E. of Wharton.
E. of Sunderland.
Ld. Halifax.
Lord Cowper.
Ld. Bolingbroke.

Anno 1; Anno,
1714.

just and ancient Liberties; and that altho' it appears by the Treaty of Peace with *Spain*, that the King of *Spain* has hitherto not been induced to agree with your Majesty's Interposition in their behalf, but insists that they shall come under the Condition of his Subjects of *Castile*, there is yet room for your Majesty's further Interposition, for securing to that People those Liberties, which cannot but be very valuable to them: We do therefore make it our most humble and earnest Request to your Majesty, that your Majesty would be graciously pleased to continue your Interposition in the most pressing manner, that the *Catalans* may have the full Enjoyment of their just and ancient Privileges continued to them.

Her Majesty's Answer was as follows:

My Lords,

Her Majesty's Answer. " I Heartily thank you for this Address, and the Satisfaction you express in the Endeavours I have used for securing the *Catalans* their just Liberties.

" At the Time I concluded my Peace with *Spain*, I resolved to continue my Interposition, upon every proper Occasion, for obtaining those Liberties, and to prevent, if possible, the Misfortunes, to which that People are exposed by the Conduct of those more nearly concerned to help them."

This Answer (which however was not made public till the 6th of April) occasioned various Reflections.

The same Day that the Lords presented this Address, their Lordships read several of the Papers that had been laid before them, in relation to the Treaties of Peace, and resolved to go upon the State of the Nation, on Monday the 5th of April.

Farther Debate on the State of Nation. Accordingly, that Day, several Speeches were made on both Sides, in relation to the Treaties of Peace in general, and to the Protestant Succession in the House of *Hanover*, in particular. After which the Question was put, Whether the Succession was in Danger under her Majesty's Administration, which occasioned a warm Debate, which lasted from two in the Afternoon till almost nine o'Clock in the Evening. The Anti-Court Lords struggled hard to have the Words under her Majesty's Administration, left out of the Question, out of Respect to her Majesty, who, they said, was no way concerned in it; and if any thing was done amiss her Ministers alone were accountable for it: But the other Side, who had a mind to justify the Ministry, or, at least, to screen them under the Queen's Name, insisted, that the Words shou-

should stand, and that the Question should be agreeable to ~~Amo to Anne~~, her Majesty's Expression, in her Speech from the Throne, ^{1714.} about the same Subject; and they being the more numerous, the Question was put, as above, and carried in the Negative, by a Majority of twelve Voices, *viz.* of seventy six ^{Division on the} Question. ~~against sixty four.~~

Besides several Speeches that were made on both Sides, the most remarkable Circumstance of this Day's Debate was, that his Grace the * Archbishop of York, and the Earl of Anglesea, spoke and voted with the opposite Lords; which ^{E. of Anglesea.} added great Weight and Strength to that Side; the first drawing after him the whole Bench of Bishops, three only excepted: And the other being followed by the Earl of ^{E. of Abingdon.} Abingdon, and six or seven other temporal Peers, who, like his Lordship, had upon most Occasions voted with the Court-Lords; so that the Victory the latter gained, was owing either to the Scotch Peers, or to the late Creation.

After the Question was carried, as the Court-Lords would have it, the Lord *Hallifax* moved, 'That an Address be presented to her Majesty, that she would be pleased to renew her Motion for Instances, for the speedy removing the Pretender out of ^{Lorrain} ~~Lorrain~~; and that her Majesty would be pleased, in Con- junction with the *States-General*, to enter into the Guaranty of the Protestant Succession in the House of *Hanover*; and also such other Princes, as her Majesty should think proper.' His Lordship was seconded by the Earl of ^{E. of Wharton]} *Wharton*, who moved besides, 'That in the said Address, her Majesty might be desired to put out a Proclamation, promising a Reward to any Person, who should apprehend the Pretender, dead or alive: ' Which Motion was backed by his Grace the Duke of ^{Duke of Bolton,} *Bolton*, who moved likewise, ' That the said Reward might be suitable to the Importance of that Service.' No Peer said any thing in Opposition to these Motions; but it being late, some Members cried, *Adjourn, Adjourn*: But the other Side, calling for the Question, it was unanimously resolved, that the said Address should be presented; and a Committee was thereupon appointed to draw it up.

Before this memorable Debate began, the Lord *North and Grey* moved, that all the Strangers that were in the House ^{E. of Wharton.]} Grey. should withdraw; upon which the Earl of *Wharton* desired, that they might be permitted to stay; and his Lordship was backed by the Duke of *Argyle*: But the noble Peer who ^{Duke of Argyle,} made the first Motion insisting upon it, all the Strangers were obliged to withdraw, except the Baron *Schutz*, Envoy Extra-ordinary from *Hanover*, whose standing behind the Throne, with the Peers Sons, was winked at.

On

* Sir William Dawes.

Anno 13 Anne,

1714.

 The Address reported.

The Lord North and Grey's Speech against it.

Lord Trevor.

The Address mitigated.

Lord Halifax moves for an Address against Romish Priests, and Persons out-lawed.

On Thursday the 8th of April, upon the Report of the Address before-mentioned, some Court-Lords moved, to mitigate the same: And among the rest the Lord North and Grey made a long Speech, wherein he endeavoured to shew, 'the Barbarity of setting a Reward upon any body's Head, which, he said, 'was an encouraging of Murder and Assassination; and how repugnant such a Proceeding was to Christianity, the Law of Nature, and the Laws of all civilized Nations.' To which Purpose his Lordship quoted some Passages out of *Grotius*, *Puffendorf*, and other learned Civilians. He represented in particular, 'how inconsistent such a Proceeding was, with the Honour and Dignity of so august an Assembly, in a Nation and Government famed for Lenity and Clemency; and, in the Conclusion, said, 'No Man either had more Respect and Affection for the illustrious House of Hanover, or would do more to serve them, than himself; but that they must excuse him if he would not venture Damnation for them.' He was backed by the Lord Trevor, who said, 'That what that noble Peer had spoke, was sufficient to shew, how inconsistent such a Proceeding was to Christianity, and the Civil-Law; and therefore he would confine himself to our own Laws; and if he knew, or understood any thing of these, he was confident, they were as opposite to such Proceedings as the Civil-Law. That he knew, he did not speak there as a Lawyer or Judge, but as a Peer; but he was fully satisfied of our Law discountenancing all such Proceedings; that if ever any such Case should come before him, as a Judge, he would think himself bound in Justice, Honour and Conscience, to condemn such an Action as Murder, and therefore he hoped the supreme Court of Judicature would not make a Precedent for encouraging Assassination.' Little was said in Opposition to these two Speeches; And so it was moved, 1st, That the Reward should be, for apprehending and bringing the Pretender to Justice, in case he should land, or attempt to land, either in *Great Britain* or *Ireland*. 2dly, That her Majesty should issue her Royal Proclamation, whenever her Majesty, in her great Wisdom, should judge it necessary. Upon a Division, these Amendments were carried by a Majority of ten Voices, some of the Lords, who the Monday before voted with the Anti-Courtiers, being for those Mitigations; and several Bishops thinking fit to give their tacit Consent to them, by their Absence from the House.

The same Day, upon a Motion made by the Lord Halifax, the Lords resolved to present another Address to the Queen, to desire her Majesty, 'That she would be pleased to issue out her Royal Proclamation for the putting in Execution

cution the Laws in Force, against all Jesuits, Popish Priests, *Anno 13 Anno*,
and Bishops, except those belonging to foreign Ministers, as *1714.*
also against all such as bore Arms against the late King *William and Queen Mary*, or her present Majesty, &c.' Upon
this Occasion, some seyere Reflections were made against
those Persons, who, being out-lawed, for adhering to the
late King *James* and the Pretender, had the Assurance, and
were encouraged, not only to come over, but even to appear
here with a public Character : But the Consideration of that
Affair was referred to the next Day, when the Lords re-
solved, ' 1st, That no Person, not included in the Articles Votes against
of *Limerick*, and who had borne Arms in *France* and *Spain*, Persons out-
shall be capable of any Employment, Civil or Military. *lawed, &c.*
2dly, That no Person, who is a natural-born Subject of her
Majesty, shall be capable of sustaining the Character of Pub-
lic Minister from any foreign Potentate.' These Resolutions
were undoubtedly made with an Eye to Sir *Patrick Lawless*,
who have been the Pretender's Envoy at the Court of *Ma-
drid*, had come over with a Credence from King *Philip*.
But upon the Noise his being here made in both Houses of
Parliament, he thought fit to go to *Holland*.

The same Day, upon an * occasional Reflection made some
Days before against the Ministers, for remitting annually a Remittances to
about 4000*l.* to the Clans of *Scotland*, as if that Sum were de-
signed to keep in heart and discipline the Pretender's Friends, *the Lord Viscount Townshend* made a Motion for taking that
Affair into Consideration. Hereupon, the Duke of *Argyle*,
made a Speech, importing, in Substance, ' That the *Scotish*
Highlanders, being for the most Part either rank Papists, or
declared Jacobites, the giving them Pensions was, in effect,
keeping up Popish Seminaries, and fomenting Rebellion.' *Duke of Argyle.*
In Answer to which the Lord-Treasurer, and the Lord Vis- *Lord Treasurer.*
count *Bolingbroke*, made it appear, ' That in this Particular, *Lord Viscount*
they had but followed the Example of the late King *William*,
who, after he had reduced the *Highlanders* of *Scotland*, *Bolingbroke.*
thought fit to allow yearly Pensions to the Chiefs or Heads
of the Clans, in order to keep them quiet ; and that if the
present Ministry could be charged with any Mismanagement,
on that Article, it was only for retrenching and saving Part
of that Hush-Money.' Nothing being alledged against this
Apology, the Lord *North and Grey* made a Motion for re- *Lord North and*
turning the Lord-Treasurer the Thanks of the House, for *Grey.*
his good Services ; but the Lord *Bolingbroke* said, he was
persuaded, the Lord-Treasurer was contented with the Testi-
mony of his own Conscience, and desired no further Satis-
faction, than to have his Conduct approved by that august
Assembly :

* See *CHANDLER*' History, *Anno 13 Anno*, 1714, Page 71, 72.

Anno 13 Anno 1714. Assembly : Whereupon, it was unanimously resolved, that the House approved his Lordship's Conduct in that Particular.

The Lord Treasurer's Conduct approved.

As all weak and unsuccessful Attacks of a Minister, do generally fortify and fix his Power ; so some Persons had Reason to repent the pursuing a wrong Scent ; and, on the other hand, one of the Lord Treasurer's Friends took that Opportunity to say, with a triumphant and insulting Air, that having, by this Time, removed ' all Fears and Jealousies about Popery and the Pretender, he hoped the Enemies of the Ministry would now speedily produce all the Objections they had against their Conduct, and thereupon his Lordship moved, that a Day might be appointed for taking into Consideration the State of the Nation, in relation to the Treaties of Peace and Commerce.' He was seconded by the Earl of Clarendon, and so the House adjourned to *Tuesday the 13th of April.*

The Day before, the House of Peers presented to the Queen an Address about the Pretender : Which was as follows :

The Lords Address against the Pretender.

' **W**E, your Majesty's most dutiful and loyal Subjects, the Lords spiritual and temporal in Parliament assembled, having a just and tender Concern for your Majesty and our Country, and being encouraged by that Zeal your Majesty has so often expressed from the Throne, for the Protestant Succession in the Illustrious House of Hanover, do now presume to renew our most humble Application to your Majesty, upon a Subject so agreeable to you as this, which is nearely your own Royal Heart ; and do humbly beseech your Majesty, that whenever your Majesty, in your great Wisdom, shall judge it necessary, you will be graciously pleased to issue your Royal Proclamation, promising a Reward to any Person who shall apprehend and bring the Pretender to Justice, in case he shall land, or attempt to land, either in *Great Britain* or *Ireland*, suitable to the Importance of the Service, for the Safety of your Majesty's Person, and the Security of the Protestant Succession in the House of Hanover.

' We also desire Leave to express our very great Concern, that your Majesty's Instances for removing the Pretender out of *Lorrain* have not yet had their Effect ; and do humbly intreat your Majesty, that you will be graciously pleased to insist upon, and renew your Instances for the speedy removing the Pretender out of *Lorrain* : And likewise that your Majesty will be graciously pleased, in Conjunction with the *States General*, to desire the Emperor to enter into the Guaranty of the Protestant Succession in

' the

the House of Hanover, and also all such other Princes as Anno 13 Anne,
your Majesty shall think proper.

1714.

To which her Majesty returned this Answer:

My Lords,

I T would be a real strengthening to the Succession in Her Majesty's
the House of Hanover, as well as a Support to my Answer.

Government, that an End were put to those groundless
Fears and Jealousies, which have been so industriously
promoted.

I do not at this Time see any Occasion for such a Pro-
clamation. Whenever I judge it to be necessary, I shall
give my Orders for having one issued.

As to the other Particulars of this Address, I will give
proper Directions therein."

This Answer raised the Hopes and Expectations of the
Friends to the Chevalier *de St. George*; but the same Day,
an Accident happened, which, as soon as known, cast them
into a deeper Conternation than they were in before the
Address against the Pretender was moved for in the House
of Peers: The Matter of Fact was this:

On Monday the 12th of April, in the Afternoon, the Baron Schutz, Envoy extraordinary from the Elector of Hanover, made a Visit to the Lord High Chancellor, and, among other Civilities, acknowledged the Affection his Lordship had shewn on several Occasions, to the most Electoral House of Hanover. The Lord Chancellor told him, ' He was extremely sensible of the Honour and Justice he did him by his Visit and Compliment: And desired him to assure the Elector his Master, of his entire Devotion to his Service; hoping his Electoral Highness gave no Credit to the false Reports that were industriously spread abroad, in order to give him Jealousies of her Majesty's Ministers.' The Baron answered, ' He would not fail discharging so agreeable a Commission: But added, he had a Favour to ask of the Chancellor, in the Name of the Electoral Prince, *viz.* That his Lordship would be pleased to make out a Writ for his Highness's sitting in the House of Peers, as Duke of Cambridge.' The Lord Chancellor was somewhat surprized at his unexpected Demand; but his Lordship told the Baron,

That it was not usual to make out Writs for Peers that were out of the Kingdom. However, he would forthwith apply to her Majesty for Directions in this Case.' The Baron replied, ' He did not doubt, his Lordship knew and would perform the Duty of his Office; but as to the Difficulty of the Duke of Cambridge's being out of the Kingdom, he

Anno 13 Anne, 1714. might assure him his Electoral Highness had resolved to come over very speedily; and, perhaps, might be landed before the Writ was made out.' At this the Baron taking his Leave, the Lord Chancellor desired him to remember, ' He did not refuse his Demand, but only thought it proper to acquaint her Majesty with it, which he would do immediately.' To which the Baron said, ' He likewise desired his Lordship to remember, that he had applied himself to his Lordship for the Duke of Cambridge's Writ:' And so they parted. The Lord Chancellor having the same Evening acquainted her Majesty, and her chief Ministers, with all that had passed between him and the Baron, a Council was immediately called, and having sat from nine o'Clock till after eleven, it was resolved, that the Lord Chancellor should make out a Writ for the Duke of Cambridge.

Which the Queen in Council resolved to grant.

Baron Schutz
forbid the Court.

He sets out sud-
dealy for Han-
over.

His Letter to
Mr. Secretary
Bromley.

This Transaction, which, the next Morning about Noon, was first whispered about in the Court of Requests, cast a sudden Damp on the Spirits of the avowed Partizans of the Chevalier *de St. George*, and even on some others, who would not be thought to have Affections that way. It was then a Problem, whether Baron Schutz had made that Demand, by express Orders from his Master, or only by the Advice of such Lords, and other Persons, as were supposed to have a more immediate Concern for the Interests of the most serene House of Hanover: But be that as it will, it was the same Day reported, by the Court-Agents, that her Majesty had taken in ill Part the Baron's applying himself to the Lord Chancellor, before he acquainted her Majesty with his Orders, in that manner; and that thereupon her Majesty had forbid him the Court, and her Ministers, to have any Correspondence with him. On Sunday the 18th of April, in the Morning, the Master of the Ceremonies carried Baron Schutz a Message, to forbid him the Court. However, at the same time, Mr. Bromley, Secretary of State, sent another Message to Monsieur Kreyenberg, the Elector of Hanover's Resident, to acquaint him, that he might come to Court as usual: And two Days after, one of her Majesty's Messengers was dispatched to Mr. Harley at the Court of Hanover, undoubtedly with Instructions suitable to the new Scene, which Baron Schutz had opened in England. On the other hand, the Baron thought fit forthwith to return to Hanover, and so on Thursday the 20th of April, in the Night, he set out post for Harwich, with only one Servant; having left in Monsieur Kreyenberg's Hands, a Letter to Mr. Secretary Bromley, importing in Substance, ' That having had the Misfortune to incur her Majesty's Displeasure, and being thereby rendered incapable of serving his Master any longer in this Court,

Court, he thought it his Duty to return Home; and so took his Leave of him.' The next Day Monsieur Kreyenberg delivered this Letter to Mr. Bromley; who told him, ' That either he, (Monsieur Kreyenberg) or any other Minister whom the Elector of Hanover would please to send over, would be well received by her Majesty.' This whole Affair, as may easily be imagined, occasioned various Reasonings and Conjectures: And as the Baron Schutz's Declaration of the Duke of Cambridge's Intention suddenly to come over, stunned and alarmed the Chevalier's Friends, so did it wonderfully raise the Spirits of the Well-affected to the House of Hanover; and had a particular Influence on the public Funds, which thereupon rose four or five per Cent.

The Lord Chancellor having, on the 13th of April, reported to the House of Peers, the Queen's Answer to their Lordships Address, about the Pretender, some Expressions in it did not appear entirely satisfactory; and thereupon it was moved to present another Address to her Majesty, tacitly infinuating the Reasons and Grounds the Lords had for the first Address; a Form of an Order for such an Address was thereupon proposed, and a noble Duke having moved, that the Word *industriously* should be added, there arose a Debate, that lasted from two till six in the Afternoon: After a warm Dispute, the Court-Party carried their Point, though by the Majority of two Proxies only, the Voices in the House being equal, *viz.* 61 on each Side; and so the following Orders were made.

April the 13th, Ordered, ' By the Lords spiritual and temporal in Parliament assembled, that an humble Address be presented to her Majesty, to return her Majesty the Thanks of this House for her most gracious Answer to their Address; and to assure her Majesty, that this House will continue to consider of, and humbly to offer to her Majesty as well as to concur with her Majesty in all proper Measures for supporting her Majesty's Government, and for strengthening the Protestant Succession in the House of Hanover, as the only effectual Means to put an End to those Fears and Jealousies, which have been so universally and *industriously* spread throughout this Kingdom.'

Ordered, ' That the said Address be presented to her Majesty by the Lords with White-Staves.'

April the 16th, The Lord High Treasurer acquainted the House, that the Lords with White-Staves had (according to Order) presented to her Majesty the Address of this House Presented to the Queen, of Tuesday last, and that her Majesty was pleased to give the following most gracious Answer thereunto.

Anno 13 Annoz,

1714.

The Queen's
Answer.

My Lords,

" **I** Thank you heartily for this Address: And take very kindly the Assurances you give me therein."

And thus ended the great Noise that was made in the Lords House about the Pretender.

Officers Bill
committed,

Debate in the
House of Lords
about the Treas-
ties of Peace and
Commerce.

Lord North and
Grey.

Lord Clarendon.

Lord Cowper.

The Day before, the Lords read, a second time, the Bill from the Commons, for securing the Freedom of Parliaments, by limiting the Number of Officers in the House of Commons; and it was carried by a Majority of seven or eight Votes, that the said Bill should be committed. Then a Motion was made for taking into Consideration the State of the Nation, in relation to the * Treaties of Peace and Commerce, and some Speeches were made on both Sides thereupon, after which the Debate was adjourned to Friday the 16th of April: That Day, the Anti-Court Lords being apprehensive, that if any Debate arose about the *Spanish Treaty*, the other Party would propose an Address to the Queen, approving of the said Treaty, they therefore agreed to say nothing against the Treaty that might draw them into

Lord North and a Debate. The Lord North and Grey stood up first, and said, that if any Lord had any Objection against the *Spanish Treaty*, he was ready to answer them: And so, in a challenging Manner, skirmished for some time. After he sat down, there was a Silence for a Quarter of an Hour; and then the Lord Clarendon stood up, and said, ' My Lords, since no Objection can be raised against the *Spanish Treaty*, we should address her Majesty, to return her our most humble Thanks, for having, by a safe, honourable, and advantageous Peace with Spain, delivered these Nations from a long, consuming Land-War; and to desire her Majesty, notwithstanding any Obstructions that may be thrown in her Way, to proceed to the Settlement of Europe, according to the Principles laid down in her Majesty's most gracious Speech.' To this the

Lord Cowper answered; ' My Lords, this is the most bare-faced Attempt that ever was made by this, or any other Ministry, to secure themselves, by endeavouring to get the Sanction of this House for themselves. My Lords, are not the Ministry themselves jealous that their Actions stand in need of the Sanction of this House? Else why this Endeavour at an Address to make their Act the Act of the House? The Lord that spoke first, acting like a Soldier, would, by skirmishing, have drawn on a general Engagement, but the Troops are too well disciplined to fall into an Ambuscade of his

* See Lord Bolingbroke's Account of these Treaties, Anno 13 Annoz, 1714, Page 107 to 124.

his laying ; but I cannot remove my Finger from the Original of our Misfortune, the Cessation of Arms. We were then told, that if a Blow had been struck it would have ruined the Peace. Would to God it had ruined this Peace !'

To back this, the Lord *Hallifax* said, ' What was last mentioned, my Lords, makes me rise into the highest Resentment of the vile Usage given my Lord Duke of *Ormond*; a Lord, for whom I have the most profound Respect. My Lord *Ormond* went over into *Flanders* with a true English Heart, which, my Lords, is the best in the World ; with a Desire to do his Country all the Service his great Ability capacitated him to do. Therefore it must be inconceivable the horrible Anguish it must give his noble and generous Heart, to receive such shocking Orders, restraining the noble Ardor of the Soldiers, flushed with former Victories, and Hopes of still greater.' ' My Lords, added the Earl of

Nottingham, ' I never knew the like Address to this ever Earl of *Nottingham*, offered at, but once, in the Case of the Duke of *Suffolk*, who, in *Henry VII*th's Time, had made a Treaty, for which he thought it convenient to get the Sanction of this House by an Address. I say no more of the Man, because he came to an untimely End.' Hereupon the Bishop of *Salisbury* said,

' My Lords, I do not understand what Law or Reason can be given to empower one Ally to disengage from his other Allies, unless in a proper Manner and Time, he acquaints them, he has done his *Ultimus Conatus* ; and that to proceed further, would be *Certa Pernicies* : That we had not come to our *Ultimus Conatus*, is plain, since in the Year of the Cessation of Arms, and the Year following, wherein nothing was done, we made as great Efforts as the former, when we did so many glorious Things ; and, to proceed further, in all human Probability, it would have been *Certa Pernicies* to our then Enemy, the French.' The Bishop of *London* answered,

' My Lords, at the Cessation of Arms, our Case was the very Case, in point, which the Bishop of *Sarum* puts ; for we had then come to our *Ultimus Conatus*, and, for ought we know, to proceed further, would have been *Certa Pernicies*.' Hereupon the Earl of *Wharton* replied, ' I did design to have said a great deal to day, but I find it all anticipated by the Lords who have spoken before me ; only I must say what I learn by sitting here, that the carrying this Vote, is the *Ultimus Conatus* of the Ministry, and that if they do not carry it, it will be to them *Certa Pernicies* : Good, my Lords, gratify my Curiosity, to let me see what *Certa Pernicies* will be.' Some other Anti-Court Lords maintained, ' That there was no absolute Necessity of making a Peace, the Nation having given near as

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anno 13 Anne, much Money for these three Years past, as during any three Years of the War ; and as for the pretended Advantages, gained by the Treaty with *Spain*, it was plain they were no more than what had been stipulated before by the Treaty of the Year 1667.' They also complained of the Method in which the Negotiations of Peace had been carried on, and of our giving up the Interests of the Emperor, and King of *Portugal*, as well as of the poor *Catalans*. After a warm Debate that lasted till about nine o'Clock in the Evening, it was resolved by a Majority of 82 Votes against 69, to present an Address to her Majesty, to acknowledge her Majesty's Goodness to her People, in delivering them by a safe, honourable, and advantageous Peace with *France* and *Spain*, from the Burden of a consuming Land-War, unequally carried on, and become at last impracticable : And to intreat her Majesty, to pursue such Measures as she should judge necessary, for compleating the Settlement of *Europe*, on the Principles laid down in her Majesty's Speech.' An Address to that Purpose was the next Day drawn up, reported, agreed to, and sent down to the Commons, for their Concurrence.

Debate on the
Schism-Bill.
Lord Viscount
Bolingbroke.

Lord Cowper.

June the 5th, the Lords in a full House, read the * Schism-Bill the first Time; on which Occasion the Lord *Bolingbroke* said, ' It was a Bill of the last Importance, since it concerned the Security of the Church of *England*, which is the best and firmest Support of the Monarchy, both which, all good Men, and, in particular that august Assembly, who derive their Lustre from, and are nearest the Throne, ought to have most at Heart : And therefore his Lordship moved, that it should be maturely considered, and, in order thereto, that it might be read a second Time.' Hereupon the Lord *Cowper* said, ' No Man was more ready than himself to do every thing that should be necessary to attain the seeming Intention of this Bill, *viz.* The preventing the Growth of Schism, and the further securing of the Church of *England* : But, that the enacting Part would be so far from answering the Title of it, that, in his Opinion, it would have a quite contrary Effect, and prove equally pernicious to Church and State.' His Lordship enlarged on these two Heads, in a Discourse of near half an Hour ; and among other Things represented, ' That, instead of preventing Schisms, and enlarging the Pale of the Church, this Bill tended to introduce Ignorance, and its inseparable Attendants, Superstition and Irreligion. To this purpose his Lordship took notice, that in many Country Towns, Reading, Writing, and Grammar-Schools, were chiefly supported by the Dissenters, not only for the Instructions

* See the Progress of the Bill in the Commons, in *CHANDLER*'s Hist. Anno 13 Anne, 1714, Page 130, 131, 133, 135, 136, 137.

and Benefit of their own Children, but likewise of those of the poor Churchmen; so that the suppressing of those Schools, would, in some Places, suppress the reading of the holy Scriptures.' On the other hand his Lordship observed, ' That this Bill struck at the antient Rights and Prerogative of the House of Peers, which, by the Constitution, is the supreme Court of Judicature, and the dernier Resort in all Causes; whereas by this Bill, the Justices of the Peace were empowered finally to hear and determine the Offences against the same: My Lords, (added he) I would rather enlarge than abridge the Power of Justices of the Peace, were it but to encourage Gentlemen to take upon them an Office so troublesome, and, at the same time, so unprofitable, unless it be perhaps in the County of Middlesex: But, my Lords, I shall never consent to give up the Birth-rights, and antient Privileges of this august Assembly, of which I have the Honour to be a Member.'

The Earl of *Wharton* spoke afterwards, and the Substance of his Discourse was, ' That he was agreeably surprized to see, that some Persons were on a sudden become so religious as to set up for Patrons of the Church: But that he could not but wonder, that the Persons who had been educated in dissenting Academies, which he could name, should appear the most forward in suppressing them. That this would be but an indifferent Return for the Benefits the Public had received from those Schools, which had bred those great Men, who had made so glorious a Peace, and Treaties that execute themselves; who had obtained so great Advantages for our Commerce; and who had paid the Public Debts, without further Charge to the Nation: So that he could see no Reason there was to suppress those Academies, unless it were an Apprehension, that they might still produce greater Genius's, that should drown the Merits and Abilities of those great Men: My Lords, continued he, to be serious, it is no less melancholy than surprizing, that, at a Time, when the Court of *France* prosecutes the Desigu they have long since laid, to extirpate our holy Religion; when not only secret Practices are used, to impose a Popish Pretender on these Realms, but Men are publicly enlisted for his Service: It is melancholy and surprizing, I say, that at this very Time, a Bill should be brought it, which cannot but tend to divide Protestants, and consequently to weaken their Interests, and hasten their Ruin: But then the Wonder will cease, if we consider what Mad-Men were the Contrivers and Promoters of this Bill.' My Lord *Wharton* excepted also against the Word *Scism*, with which the Frontispiece of this Bill was set off; and said, ' It was somewhat strange, they should

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anno 13 Anne, should call Schism in *England*, what is the established Religion in *Scotland*; and, therefore, if the Lords who represented the Nobility of that Part of *Great Britain*, were for the Bill, he hoped, that in order to be even with us, and consistent with themselves, they would move for the bringing in another Bill to prevent the Growth of Schism in their Country.' He said also upon another Occasion, for his Lordship spoke more than once, ' That both in this Bill, and in the Speeches of those who declared for it, several Laws were recited and alledged; but that there was a Law that had not yet been mentioned: I expected, (added he,) that venerable Bench, turning to the Bishops, would have put us in mind of it; but since they are pleased to be silent in this Debate, I will myself tell them, that it is the Law of the Gospel, *to do unto others, as we would be done unto.*'

E. of Abingdon. The Earls of *Abingdon* and *Anglesea* spoke afterwards for the Bill, and the latter said, among other things, ' That the **E. of Anglesea.** Dissenters were equally dangerous both to Church and State; that they were irreconcileable Enemies to the Established Church; which they had sufficiently manifested in the late King *James II*'s Reign, when, in order to obtain a Toleration, they joined themselves with the Papists; and that they had rendered themselves unworthy of the Indulgence the Church of *England* granted them at the Revolution, by endeavouring to engross the Education of Youth; for which purpose they had set up Schools and Academies in most Cities and Towns of the Kingdom, to the great Detriment of the Universities, and Danger of the established Church.'

Earl of Halifax. The Lord *Halifax* spoke on the other side, and among **Lord Viscount Townshend.** other things said, ' That the very bringing in of this Bill was injurious to the Queen; and he could not believe her Majesty would ever give her Royal Assent to such a Law, after the solemn Declaration she had made from the Throne, that she would inviolably maintain the Toleration, which this Bill visibly struck at. He added, that her Majesty made it the Glory of her Reign, to follow the Steps of Queen *Elizabeth*, who had not only entertained and protected the reformed *Walloons*, who took Sanctuary in her Dominions, from the Spanish Inquisition, but had likewise allowed them the public Exercise of their Religion, and caused a Clause in their Favour to be inserted in the Act of Uniformity. That thereby that wise and glorious Queen had vastly increased the Wealth of her Realms, the *Walloons* having settled here the Woollen Manufactures, which are the best Branch of the national Trade. That the Protection and Encouragement, the late King *William* and Queen *Mary*, and her present Majesty had given to the French Refugees, had proved no less advan-

advantageous to Great-Britain. And therefore it would be *Anno 13 Anne,*
 a Piece of Barbarity to make an Act, which should debar 1714.
 many French Protestants of means of subsisting, either by
 keeping public Schools, or teaching in private Families ;
 especially considering their late hard Usage, the Govern-
 ment not having, for above three Years past, paid them any
 Part of the fifteen thousand Pounds *per Annum*, allowed by
 Parliament in the Civil-Lift, towards the Maintenance of their
 Ministers, and Poor.' His Lordship concluded with taking
 notice of the fatal Consequences of persecuting the Dissen-
 ters in King *Charles I's* Reign, which kindled a furious and
 unnatural Civil War ; and ended in the total Overthrow of
 Church and State, and in the King's Parricide.

The Lord Viscount Townshend spoke on the same Side, *Lord Viscount Townshend*,
 and among other Arguments represented the ill Effects of Persecution in general : He said, to that Purpose, that he
 had lived a long time in *Holland* ; and had observed, that
 the Wealth and Strength of that great and powerful Com-
 monwealth lies in the Number of its Inhabitants : But that
 he was persuaded, that if the *States* should cause the Schools
 of any one Sect tolerated in the *United Provinces*, to be shut
 up, they would be soon as thin of People, as *Sweden* or *Spain*,
 whereas they now swarm with Inhabitants.'

The Lord North and Grey, who spoke for the Bill, main- *Lord North*
 ained the general Assertion of his Party, *viz.* That the *and Grey.*
Church was in Danger from the Growth of Schismatics.
 The Earl of Nottingham said thereupon, ' He owned he had *Earl of Nottingham*
 formerly been of Opinion, that the Occasional Conformity of
 Dissenters was dangerous to the Established Church ; and
 therefore he ever promoted the Bill to prevent it : But that
 he Church having now that Security, he believed her safe
 and out of Danger ; and therefore he thought himself, in
 Conscience, obliged to oppose so barbarous a Law as this,
 which tended to deprive Parents of their natural Right of
 educating their own Children. He added, he had observed,
 both from History and his own Experience, that all the Per-
 secutions that had been raised in *England* against Schismatics,
 originally proceeded from, and tended to favour Popery.'
 His Lordship likewise excepted against that Part of the Bill
 which enacts, that any Person who should keep any public
 or private School, or instruct any Youth as Tutor, should
 have a Licence of the respective Archbishop or Bishop of the
 place, &c. ' My Lords (said he) I have many Children ;
 and I know not whether God Almighty will vouchsafe to
 let me live to give them the Education I could wish they
 had : Therefore, my Lords, I own I tremble when I think,
 that a certain Divine, who is hardly suspected of being a
 Christian,

Amo 13 Anno, Christian, is in a fair way of being a Bishop, and may on Day give Licences to those, who shall be entrusted with the Instruction of Youth.'

Lord Treasurer.

1

Some other Lords made Speeches for and against the Bill: But the Lord High Treasurer contented himself with saying, ' That he had not yet considered of it: But when he had, he would vote according as it should appear to him, to be either for the Good or Detriment of his Country: And therefore he was for reading the Bill a second Time: ' Which was agreed to, without dividing, and put off to the Monday following.

Petition of the Dissenters, to be heard by their Council rejected.

Earl Paulett.
Lord Foley.
Lord Mansel.

After this, the Dissenters presented a Petition, praying that they might be heard by their Council against the Bill; but the same was rejected by a Majority of 72 Votes against 66: It was observed, that, on this Occasion, the Earl of Paulett, the Lord Foley, the Lord Mansel, and some other Friends of the Lord Treasurer, voted with the Anti-Court Lords, for the allowing the said Petition; and that the Lord Treasurer himself went out of the House, that he might not be obliged to declare on either Side, which strengthened their Opinion, who thought this Bill to be levelled against his Lordship.

The Bill read a second Time and committed.

A Clause in favour of the Dutch and French Churches ordered.

The Lord Committee of the whole House, make several Amendments to the Bill.

B. of London.

Lord Halifax.

On Monday the 7th of June, the Lords read the said Bill a second time, and referred it to a Committee of the whole House, the Wednesday following; after which their Lordships took into Consideration, the Case of the Dutch and French Protestant Churches above-mentioned (which had been presented the Saturday before) and after a small Debate, it was carried, without dividing, that a Clause should be inserted in the Bill, in Favour of the said Churches.

On the 9th of June, their Lordships in a Committee of the whole House, of which his Grace the Lord Archbishop of York was chosen Chairman, took the said Bill into Consideration, and examined the same Paragraph by Paragraph, from One in the Afternoon, till Eight in the Evening. The Lord Bishop of London, who was one of the first that spoke in this Day's Debate, said, ' That the Dissenters had made this Bill necessary, by their Endeavours to propagate their Schism, and to draw the Children of Church-men to their Schools and Academies.' To which the Lord Halifax answered, ' That what they did, was with the Knowledge and Consent of the Parents, who, in many Places, had not sufficient Means to educate their own Children; and his Lordship took from thence Occasion to move, That since this Bill was occasioned, as was suggested, by the Dissenters endeavouring to engross the Education of the Youth of both Persuasions, they might be allowed Schools to instruct their own Children.' Which Motion being formed into a Question,

was

was debated for near three Hours. The Lords *Cowper* and *Arno* 15 *Ann.*
Halifax, the Earl of *Sunderland*, and some other Peers, 1714.
made several Speeches for the Affirmative. But the Lord *Viscount Bolingbroke*, the Earl of *Anglesea*, the Duke of *Bucks*, the Earl of *Abingdon*, and the Lord Chancellor, in-
flicted on the Negative, which was, at last, carried by 62 votes against 48. After this, it was moved, that the Dis-
fenders might, at least, be suffered to have School Mistresses, to teach their Children to read, which, after a Debate of about an Hour, was carried, without dividing : As was also a Clause, ' That this Act should not extend to any Person who should instruct Youth in Reading, Writing, Arithmetic, or any Part of Mathematical Learning only, so far as such Mathematical Learning relates to Navigation, or any Mechanical Art only.' Then their Lordships examined that Part of the Bill, whereby the Conviction of Offenders against this Act was left to the Justices of the Peace ; and, after a warm Dispute, it was carried by a Majority of 59 Votes against 54, that the Conviction should be in the ordinary Course of Justice, *viz.* upon an Information, Presentment, or Indictment, in any of her Majesty's Courts of Record at *Westminster*, or at the Assizes, or before Justices of Oyer and Terminer. The Court-Party finding, by this last Division, that they lost considerable Ground, and being apprehensive, that other Amendments, which wou'd render the Bill altogether useless, might be carried, moved, that the Chairman should leave the Chair, in order to adjourn ; but tho' the contrary Party, at first, opposed it, yet, after some Debate, upon the Penalties to be inflicted on the Offenders, both House ad-
Parties being equally tired, the House adjourned to the next journed. Day.

Accordingly, on Thursday the 10th of June, the Lords The Debate re-
in a Committee of the whole House, resumed the Debate ^{newed.}
about the Penalties; and fixed the same to three Months
Imprisonment; after which it was moved, and agreed, That
Persons aggrieved might appeal from ecclesiastical Censures,
as in Cases of ordinary Jurisdiction. A Clause was afterwards Tutors in the
proposed, and carried to exempt from the Penalties of this Families of
Act, any Tutor who shall be employed by any Nobleman, ^{Peers exempt.}
or Noblewoman, to teach in their Families, provided such
Tutor do, in every Respect, qualify himself according to this
Act, except only in that of taking a Licence from the Bi-
shop. There was no Division upon these Questions, but the
Debate lasted till six in the Evening.

The next Day, their Lordships, still in a grand Committee, considered further of the Bill to prevent the Growth of Schism, &c. And the Earl of Anglesea moved, that a Clause be added to the Bill to extend the same to Ireland.

Anno 13 Anno 1714. might be inserted in it, to extend this Act to *Ireland*: Which, after some Debate, was carried in the Affirmative, by the Majority of one Voice only; after which it was ordered, that the Amendments made to the Bill should be reported to the House the Monday following. Accordingly,

Carried in the Affirmative. Reported by the *Abp. of York.* on the 14th of *June*, the *Archbishop of York* made the said Report; and several severe Speeches were made against the Clause, to extend this Bill to *Ireland*; particularly by the

Opposed by the Duke of Shrewsbury. Duke of *Shrewsbury*, *Lord Lieutenant* of that Kingdom, who being just returned from thence, took, that critical Day, his Seat in the House: But the Question being put, it was carried by 57 Votes against 51, that the said Clause should stand, and ordered that the Bill, with the other Amendments which were appproved, should be engrossed. The next Day, the

The Bill passed. said engrossed Bill was read the third time, and after a small Debate, it was carried by 77 Votes against 72, that the Bill do pass. This done, the *Lords* sent a Message to the *Commons*, that they had agreed to the said Bill with Amendments, to which they desired the Concurrence of that House.

On which Occasion was entered the following Protest:

Dissentient

Protest thereon. We cannot apprehend (as the Bill recites) that great Danger may ensue from the *Dissenters*, to the Church and State.

Because, 1. By Law no *Dissenter* is capable of any Station which can be supposed to render him dangerous.

2. And since the several Sects of *Dissenters* differ from each other as much as they do from the *Established Church*, they can never form of themselves a *National Church*; nor have they any Temptation to set up any one Sect among them: For in that Case, all that the other Sects can expect, is only a *Toleration*, which they already enjoy by the *Indulgence* of the State; and therefore, it is their Interest to support the *Established Church* against any other Sect that would attempt to destroy it.

II. If, nevertheless, the *Dissenters* were dangerous, Severity is not so proper and effectual a Method to reduce them to the Church, as a charitable *Indulgence*, as is manifest by Experience, there having been more *Dissenters* reconciled to the Church since the *Act of Toleration*, than in all the Time since the *Act of Uniformity*, to the Time of the said *Act of Toleration*, and there is scarce one considerable Family in *England* in *Communion* with the *Dissenters*: Severity may make them *Hypocrites*, but not *Converts*.

III. If Severity could be supposed ever to be of Use, yet this is not a proper Time for it, while we are threatened with much greater Dangers to our Church and Nation, against

against which the Protestant Dissenters have joined, and are still willing, to join with us in our Defence; and therefore we should not drive them from us; by enforcing the Laws against them, in a Matter which, of all others, must most sensibly grieve them, *viz.* the Education of their Children; which reduces them to a Necessity either of breeding them in a way they do not approve, or of leaving them without Instruction.

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IV. This must be the more grievous to the Dissenters, because it was little expected from the Members of the Established Church, after so favourable an Indulgence as the Act of Toleration, and the repeated Declarations and Professions from the Throne, and former Parliaments, against all Prosecution, which is the peculiar Badge of the *Roman* Church, which avows and practises this Doctrine; and yet this has not been retaliated even upon the Papists; for all the Laws made against them have been the Effects and just Punishment of Treasons, from time to time committed against the State: But it is not pretended that this Bill is designed as a Punishment of any Crime which the Protestant-Dissenters have been guilty of against the Civil Government, or that they are disaffected to the Protestant Succession, as by Law established; for in this their Zeal is very conspicuous.

V. In all the Instances of making Laws, or of a rigid Execution of the Laws against Dissenters, it is very remarkable, that the Design was to weaken the Church, and to drive them into one common Interest with the Papists, and to join them in Measures tending to the Destruction of it. This was the Method suggested by Popish Councils, to prepare them for the two successive Declarations in the Time of King *Charles* II. and the following one issued out by King *James* II. to ruin all our civil and religious Rights: And we cannot think that the Arts and Contrivances of the Papists to subvert our Church, are proper Means to preserve it, especially at a Time when we are in more Danger of Property than ever, by the Designs of the Pretender, supported by the mighty Power of the *French* King, who is engaged to extirpate our Religion, and by great Numbers in this Kingdom, who are professedly in his Interests.

VI. But if the Dissenters should not be provoked by this Severity, to concur in the Destruction of their Country and the Protestant Religion, yet we may justly fear they may be driven by this Bill from *England*, to the great Prejudice of our Manufactures, for, as we gained them by the Persecution Abroad, so we may lose them by the like Proceedings at Home.

Lastly,

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Lastly, The Miseries we apprehend here, are greatly enhanced by extending this Bill to *Ireland*, where the Consequences of it may be fatal; for since the Number of Papists in that Kingdom far exceeds the Protestants of all Denominations together, and that the Dissenters are to be treated as Enemies, or at least, as Persons dangerous to that Church and State, who have always, in all Times, joined, and still would join, with the Members of that Church, in their common Enemy of their Religion; and, since the Army there is very much reduced, the Protestants, thus unnecessarily divided, seem to us to be exposed to the Danger of another Massacre, and the Protestant Religion in Danger of being extirpated.

And we may farther fear that the *Scots* in *Britain*, whose national Church is *Presbyterian*, will not so heartily and zealously join with us in our Defence, when they see those of the same Nation, same Blood, and same Religion, so hardly treated by us.

And this will still be more grievous to the Protestant Dissenters in *Ireland*, because whilst the Popish Priests are registered, and so indulged by Law, as that they exercise their Religion without Molestation, that the Laws are by this Bill enforced against them.

Somerset, Dorchester, Scarborough, Nottingham, Haverfham, Hallifax, W. Lincoln, Dorset and Middlesex, Sunderland, Bolton, Grafton, Derby, Carlisle, Foley, Greenwich, J. Ely, T. Wharton, Cornwallis, Torrington, Devonshire, Lincoln, Somers, Montagu, Radnor, W. Asaph, Townshend, Orford, Ro. kingham, Schomberg and Lempster, J. Bangor, De Longueville, J. Landaff, Couper.

*End of Notting-
ham's Motion
for an Address
of Thanks for
the Queen's
Proclamation
for removing the
Pretender.
Lord Hallifax.
Earl of Whar-
ton.*

June the 24th, The Earl of Nottingham made a Motion for an Address of Thanks to her Majesty, for the Proclamation against the Pretender, &c. and was seconded by my Lord Hallifax. The Earl of Wharton, who likewise backed the Motion, holding the Queen's Proclamation in his Hand, did most pathetically lament her Majesty's owning that her Endeavours to remove the Pretender from *Lorrain* had been ineffectual. 'Unhappy Princess (said he) how much her Condition is altered! Will Polterity believe that so great a Queen, who had reduced the exorbitant Power of *France*, given a King to *Spain*, and whose very Ministers had made the *Emperor* and the *States General* to tremble, should yet want Power to make so petty, so inconsiderable a Prince, as the Duke of *Lorrain*, comply with her just Desire of his removing out of his Dominions the Pretender to her Crown!'

None

None of the Peers spoke against the Earl of Nottingham's Motion, so that the same was carried, *Nemine Contradicente,* and the Lords Address being immediately drawn up, and agreed upon, was, the next Day, presented to her Majesty, as follows:

Most gracious Sovereign,

WE, your Majesty's most dutiful and loyal Subjects, The Lordships the Lords spiritual and temporal in Parliament assembled, in a just Sense and Acknowledgment of your Majesty's Goodness, return our most humble Thanks for the Proclamation which your Majesty, at the Request of this House, has been graciously pleased to issue, for apprehending the Pretender, in case he should land, or attempt to land, in any of your Majesty's Dominions.

And since your Majesty's Instances for removing the Pretender from *Lorrain*, have hitherto been ineffectual, we take this Occasion to repeat our humble Request and Advice to your Majesty, to endeavour, in the most proper and speediest Manner, not only to renew the Alliances your Majesty had with the Princes of *Europe*, but also to invite them, and particularly the *Emperor* and the King of *Prussia*, into the Guaranty of the Protestant Succession as by Law established, in the most serene House of *Brunswick*, and to desire them to join with your Majesty, in preserving the Duke of *Lorrain*, not to suffer the Pretender to remain in any Part of his Dominions.

And since the Papists and Nonjurors are so insolent, as not only to support the Pretender's Claim to your Royal Crown, by their Writings and Discourses, but also traitorously to enlist Men into his Service, and send them to *France*; we most humbly beseech your Majesty to issue out your Royal Proclamation, promising a Reward to all such Persons as shall discover to any of your Magistrates, and cause to be apprehended, any Person who hath already listed any Person, or hath been listed in *Great Britain* or *Ireland*, into the Service of the Pretender, or of *France*, or that shall carry any such Persons abroad.

And we do further pray your Majesty to give your Orders to all your Majesty's Officers and Magistrates, to put the Laws in Execution against the Papists and Nonjurors, by taking from them their Horses and Arms, and confining them to their usual Habitations, in such Manner as by Law is directed: And that your Majesty will be pleased to require an exact Account of their Proceedings therein, to be transmitted by them respectively, to your Majesty in Council, and to direct the same to be laid before this House at their next Meeting.

Her

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Anno 15 Anne,

Anno 13 Anne,

1710.

The Queen's
Answer.

Her Majesty's Answer was as follows :

My Lords,

“ I Thank you kindly for this Address. And I am glad
“ you are pleased with what I have done for the Pro-
“ tent Succession.

“ You may be assured I shall continue to do whatever I
“ judge necessary for the securing our Religion, the Liberty
“ of my People, and for putting an end to the vain Hopes
“ of the Pretender.”

Address of
Thanks voted.

On the 28th of *June*, it was ordered by the Lords spi-
ritual and temporal in Parliament assembled, that an humble
Address be presented to her Majesty, to return the Thanks
of this House to her Majesty, for her most gracious Answer
to their Lordships Address of Thursday last ; and that the
same be presented to her Majesty by the Lords, with white
Staves.

Lord Viscount
Bolingbroke
moves for a Bill
to make it High
Treason for any
one to enlist in
the Pretender's
Service.

The Lord Viscount *Bolingbroke*, who, on the 24th of *June*,
came into the House of Peers after their Lordships had voted
the Address against the Pretender, appeared somewhat sur-
prized at that Resolution, and said, that there was a more
effectual Way to secure the Succession in the House of *Han-*
over. Some Members expressing thereupon their Desires,
that he would propose it to the House, his Lordship moved,
that a Bill be brought in to make it High-Treason for any
Person to list, or to be listed into the Pretender's Service :
My Lord *Hallifax* represented thereupon, ‘ That, tho' such
a Bill was altogether needless, both the Pretender and all
his Adherents, and Abettors, being already attainted of
High-Treason : However, he should be glad such a Bill
were brought in ; because, with some Alterations, it might
be made a very good one. Hereupon the Bill was brought
in, read the first time, and, upon the Lord *Hallifax*'s Mo-
tion, ordered to be read a second time, the next Day, in a
full House. This was done accordingly, on the 26th of

The said Bill
ordered in.

June ; and the House of Peers immediately resolved them-
selves into a Committee of the whole House upon the said
Bill, and chose the Lord *Bolingbroke* Chairman. The Lords
Hallifax, *Townshend*, *Cowper*, *Somers*, and *Wharton*, who
spoke most in this Committee, made it their chief Business
to shew, ‘ That the Pretender was inconsiderable of himself ;
and not to be feared, but so far forth as he was countenanced
and protected by the *French* King, whose Interest and con-
stant Design was to impose him upon these Realms. And
therefore they moved, and it was agreed, that the Title of
the Bill should be, to prevent the listing her Majesty's Sub-
jects to serve as Soldiers, without her Majesty's License ;
and

Lord Hallifax.
Lord Viscount
Townshend.
Lord Cowper.
Lord Somers.
E. of Wharton.

nd that it should be High-Treason to list or be listed to Anno 13 Anne,
erve any foreign Prince, State or Potentate, without a Li-
cence under the Sign-Manual of her Majesty, her Heirs or
Successors. Moreover, the following Proviso was moved
and agreed to, *wiz.* ' That no Licence shall be effectual to
exempt any Person from the Penalties of this Act, who shall
list or cause to be listed in the Service of the French King,
until after the said French King shall have disbanded, broke,
and dismissed all the Regiments, Troops, or Companies of
Soldiers, which he has or may have in his Service, con-
sisting of the natural-born Subjects of the Crown of Great
Britain : This Act to continue in force for three Years.'
The Amendments made to this Bill were reported, and
agreed to by the House, on Monday the 28th of June, and
the next Day, the Bill was sent to the Commons, who gave
it their Concerrence without any Amendments.

And passed.

On the last Day of June, and first of July, the Lords Debate about
caused several Papers, relating to the Trade in Spain and the Spanish
West-Indies to be read ; and the next Day, their Lord- Trade.
ships took that Affair into their Consideration. The Earl Earl of Notting-
of Nottingham, who opened that important Matter, made ham.
it plainly appear, that, considering the Discouragements to
which that Trade was subjected by the Explanations of the
third, fifth, and eighth Articles of the Treaty of Naviga-
tion and Commerce between Great Britain and Spain, which
Explanations were made at Madrid, after signing of the said
Treaty at Utrecht, it was impossible for our Merchants to
carry on that Trade without certain Loss. His Lordship
supported his Arguments by a Letter written by an English
Factor in Spain to his Principals ; and was seconded by the
Lord Cowper. My Lord Bolingbroke endeavoured to answer Lord Cowper.
their Objections ; and, among other things, excepted against Lord Viscount
that Letter, which, he pretended, was forged here. The Bolingbroke.
Lord Halifax stood up next, and made a Speech, wherein Lord Halifax.
he represented, ' how the most beneficial Branch of Com-
merce, the Trade, for the Recovery of which we entered
into the late expensive War, had been notoriously neglected,
and given up.' The Lord Bolingbroke having said something
in Defence of the Ministry, my Lord Halifax, and some Lord Viscount
other Peers, confuted his Allegations. But what put the Bolingbroke.
Advocates of the Spanish Treaty to Silence, was the Testi-
mony of Sir William Hedges, and of about thirty more emi-
gent Merchants trading to Spain, both Whigs and Tories,
who being called into the House of Lords, unanimously
averred, that, unless the Explanations of the three Articles
before-mentioned were rescinded, they could not carry on
their Commerce, without losing twenty or twenty five per
cent.

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 Anno 13 Anne. Cent. It was observed, that the Lord High-Treasurer joined with the Lords, who insisted on the hearing of the *Spaniſh* Merchants, which was strenuously opposed by the Lord *Bolingbroke*: And which nice Observers looked upon as a certain Indication of a Falling-out between those two Ministers. After a Debate and Examination, that lasted till near Seven o'Clock in the Evening, the Lords resolved to

Ld. Treasurer.
 Ld. Bolingbroke.
 An Address
 voted for all Pa-
 pers relating to
 the Treaty of
 Commerce with
 Spain, &c.

The Queen's
 Answer.

Unsatisfactory. Members excepted against that Answer, as unsatisfactory: E. of Wharton. And, among the rest, the Earl of *Wharton* and the Lord *Halifax* represented, 'That if so little Regard was shewn to the Addresses and Applications of that august Assembly to the Sovereign, they had no Business in that House, and moved that a Representation be made to her Majesty, to lay before her the insuperable Difficulties that attended the *Spaniſh* Trade, on the Foot of the late Treaty:' Which was agreed to. It was also moved, that the House should insist on her Majesty's naming the Persons who advised her to ratify the said three explanatory Articles; but the Courtiers warded off that Blow, which was chiefly levelled at the Lord *Bolingbroke*, and his Agent *Arthur Moore*. The same Day, the said Representation was drawn up, reported, agreed on, and on the 7th of July presented to her Majesty, as follows:

Most gracious Sovereign,

Which gave
 Rife to a Repre-
 sentation.

W E, your Majesty's most dutiful and loyal Subjects, the Lords spiritual and temporal in Parliament assembled, having taken into our serious Consideration the present State of the Trade between your Majesty's Subjects and *Spain*, do beg Leave humbly to represent to your Majesty, that, upon the Examination of Merchants at our Bar, and perusing and considering several Representations and

Papers,

‘ Papers, laid before us by your Commissioners of Trade, in Anne 13 Anneæ,
 ‘ appears to us, that the carrying on the Trade, between 1714.
 ‘ your Majesty’s Dominions and *Spain*, on the foot of the
 ‘ present Treaty of Commerce, as it stands ratified with the
 ‘ three explanatory Articles, is attended with insuperable
 ‘ Difficulties, and therefore we do very earnestly beseech
 ‘ your Majesty, to use effectual Means for procuring such
 ‘ Alterations to be made in the same, as may render the said
 ‘ Trade practicable and beneficial to your Majesty’s People.’

Her Majesty’s Answer was :

My Lords,

“ **I**T has been my Care to procure all possible Advantages The Queen’s
 “ for my Subjects in Trade. Answer.

“ And I shall continue my utmost Endeavours to obtain
 “ farther Benefits, and particularly in the Trade with *Spain*
 “ which is so useful to my Subjects.”

On the 5th of *July*, the Lords resolved to resume the next Consideration of Day, the Consideration of the Treaty of Commerce with the Treaty of *Spain*: And in order to go to the bottom of that Affair, their Commerce re- Lordships sent a Message to the Commons, to acquaint them, that the Lords having under Consideration Matters of great Moment, relating to the Trade of this Kingdom, did desire, that such Members of that House, who were Commissioners of Trade and Plantations, might have Liberty to attend their Lordships that Day. Upon this the Commons ordered, ‘ That such Members of their House, who were Commissioners for Trade and Plantations, have Liberty to go to the Lords, if they thought fit.’

On Tuesday, the 6th of *July*, the Lords proceeded to the The Commiss- Consideration of the *Spanish* Trade, and to the Examination of the Commissioners of Trade and Plantations. The Earl of *Wharton*, who began the Debate, said, among other Things ironically, ‘ He did not doubt but one of those Gentlemen could make it appear, that the Treaty of Commerce with *Spain* was very advantageous.’ This was meant of Mr. *Arthur Moore*, who had the chief Management of that Affair, and who contradicted himself in several Questions that were asked him by the Lord *Cowper*, about the three explanatory Articles in Question. This was aggravated by the Confession of the other Commissioners, particularly of *Robert Monkton*, Esq; who declared, that Mr. *Moore* only read cursorily to them the said Articles, without giving them Time to examine the same: Besides which, Mr. *Popple*, their Secretary, deposed, That Mr. *Moore* had shewn him a Letter in *French* from Monsieur *Orry*, directed to Don *Arturio Moro*, import-

Anno 13; Anno, ing in Substance, ' That he must not expect the two thousand 1 4 Louis D'or per Annum, that had been promised him, unless he got the three explanatory Articles ratified.' Mr. *Wheeler*, first Clerk to the Commissioners of Trade, and private Secretary to Mr. *Moore*, being also examined upon Oath, was in Conscience obliged to lay many Things to his Master's Charge. In this Debate there was some Dispute between the Lords *Lexington* and *Bolingbroke*, about a Letter, which the first maintained to have received from the latter; but it was observed, that the Lord Treasurer remained neuter; and his Friends gave out, that he had no Share in the Ratification of the Articles in Question.

The Lords resolved to take, the next Day, into further Consideration, the State of Trade with Spain and the West-Indies; And in order thereto, that the Committee of the South Sea for the *Affiento*, the Commissioners of Trade, Mr. *Lowndes*, and Captain *Johnson*, should attend their House. On Thursday the 8th of July, their Lordships sent a Message to the Commons, to desire that such of their Members as were of the said Committee of the South Sea Company for the *Affiento*, and also *William Lowndes*, Esq; a Member of their House, might have Leave to attend the House of Lords, that Day: Which the Commons complied with; after the Lords, by a second Message, had specified the Cause for which their Lordships defired their Attendance. It appeared by the Confession of Mr. *Lowndes*, Secretary, and Mr. *Taylor*, first Clerk to the Lord High Treasurer, that they were only nominal Assignees for the Quarter-Part of the *Affiento* Contract reserved for her Majesty, and that some Persons to them unknown, (but who were strongly suspected to be the Lord *Bolingbroke*, the Lady *Moore*, and Mr. *Arthur Moore*) were to have the Benefit of it. Upon which the Lord *Cowper* made a Speech, wherein he made it appear, that the Uncertainty and Suspence in which the South Sea Company had a long time been kept, whether her Majesty would retain to herself, or give to the Company, the Quarter-Part of the *Affiento* Contract therein reserved to her, had been the principal Obstruction to the Company's carrying on that Trade.

Lord Cowper.

Earl of Wharton.

Hereupon the Earl of *Wharton* moved, ' That an Address be presented to her Majesty, that she would be graciously pleased to give the South Sea Company, not only the Quarter Part of the *Affiento* Contract therein reserved to her Majesty, but also the seven and a half per Cent. granted to *Manual Manasses Gilligan*, Esq; and any other Profits arising from the said Contract.' But the Question being put thereupon, it was carried in the Negative by 55 Votes against

Earl of Anglesea. 43. After this the Earl of *Anglesea* moved, and it was resolved

solved by 36 Votes against 40. ' To present an Address to ^{Anto 13 Anno} her Majesty to return the Thanks of the House for her ^{1714.} Majesty's having so generously given, not only Licences for the two Ships of 500 Tuns each, and the *Affento* Con-tract; but also the Quarter-Part, which her Majesty was pleased, at first, to reserve to herself; and that her Majesty would be graciously pleased, that such other Advantages which were or might be vested in her Majesty, might be disposed of for the Use of the Public.' This Day's Debate took up the Lords till nine of the Clock in the Evening, so that they had no time, as some Anti-Court Lords designed it, to proceed to the Censure of Mr. *Moore*.

The next Day, her Majesty's Answer to their Lordships Address was reported, *viz.*

" **H**E R Majesty returns her Thanks for this Address. The Queen's Answer. She has always had a great Consideration for the Advice of the House.

" And, as to the Particulars desired, her Majesty will dispose of them as she shall judge best for the Service."

The latter Part of this Answer was very ill relished by the said Lords, and even by the Earl of *Anglesea* himself, who had made the Motion for the Address. Some Members took that Occasion to complain of her Majesty's Silence, in relation to the Desire of that House, that she would be pleased to name the Persons who had advised her to ratify the three explanatory Articles; and some hot ^{Warm Speeches} were made on both Sides, on that nice Affair: about it. But the Lottery-Bill being ready for the Royal Assent, her Majesty came that very Day to the House of Peers, which put an end to that warm Debate. It was the general Opinion, that if the Parliament had sat one Day longer, Mr. *Arthur Moore* would have been censured by the Lords, and ordered to be prosecuted; nay, many hoped that their Lordships would have carried their Resentment of his and the Lord *Bolingbroke's* Conduct, in relation to the Treaty of Commerce with Spain, so far as to send them both to the Tower. It was also generally thought, that this Storm was the Result of a late Misunderstanding between the two chief Ministers, and raised by the Lord Treasurer, in order to depress the Secretary of State, who endeavoured to put him out of the Queen's Favour: But when their Animosity seemed to be ready to break out, they wisely considered, that either of them must, in the end, fall a Victim to their Enemies, which made them, for the present, join their Forces for their common Safety.

The

The Lords Ad-dress to the Queen about the *Affento*.

Anno 13 Anne, The Queen, being come to the House of Peers, on the 9th of July, with the usual State, and the Commons being sent for up, and attending, her Majesty was pleased to give the Royal Assent to several public and private Bills ; after which she put an end to the Session, with a Speech ; which see in CHANDLER's *History*, Anno 13 Anne, 1714. p. 153. and in the subsequent Pages the Lord Oxford's Letter to the Queen, containing a brief Account of his Conduct while in Power.

The End of Vol. II.





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